

CHAPTER 20

Use of Department of the Navy Real Property Under License of Use Agreement

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CHAPTER 20

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CHAPTER 20

USE OF DEPARTMENT OF THE NAVY REAL PROPERTY  
UNDER LICENSE OF USE AGREEMENT

Part 1 - GENERAL

1. SCOPE.

This Chapter prescribes the policy and procedure, and delegates authority and responsibility for the issuance, amendment, administration, and termination of licenses and use agreements for the use of real property owned, leased or otherwise controlled by the Department of the Navy.

2. LIMITATIONS ON SCOPE.

This Chapter has no applicability to the use of Navy real property under the following circumstances which are governed by other instructions and regulations:

- a. Oral or written authorizations granted by or under the authority of the head of an installation as an incident of day-to-day command and administration, such as for visitors and tradesmen doing business with installation officers and personnel and for activities of the Naval Sea Cadet Corps.
- b. Use of real property provided in accordance with the Armed Services Procurement Regulation (ASPR) as an incident to performance of a Government contract for the procurement of supplies, services, construction, utilities, or other commodities.
- c. Use of Department of the Navy aviation facilities by other than United States Department of Defense aircraft, SECNAVINST 3770.1B of 30 June 1970.
- d. Agreements entered into under the authority of Civilian Manpower Management Instructions 790.7 of 26 June 1970.
- e. The furnishing of facilities in the event of National Disaster Emergencies as provided for in SECNAVINST 3050.32A of 4 September 1974.
- f. Agreements for U.S. Postal Office facilities provided in accordance with U.S. Navy Postal Instruction (OPNAVINST 5112.1 of 10 June 1974).
- g. Agreements for Special Uses covered in Chapter 22.
- h. Cross-servicing agreements for use of storage and warehousing facilities by other military departments in accordance with Part G, Chapter 7, Vol. II, NAVSUPMANUAL.
- i. Property reported as excess to the General Services Administration.
- j. Lands of the Naval Petroleum and Oil Shale Reserve. With respect to licenses covering excess property, the Department of the Navy acts only as agent for and on behalf of General Services Administration under the authority of the Federal Property and Administrative Services as of 1949, as amended (40 U.S.C. 471) and regulations promulgated thereunder by GSA.

3. DEFINITIONS.

- a. "License": an authorization revocable at will to an individual, an organization, a corporation, a state or local governmental authority, or another federal agency, to use, for specific purposes without conferring any possessory interest, real property controlled by the Department of the Navy.

The test to determine whether an agreement for the use of real estate is license or a lease is whether it gives exclusive possession of the premises against all of the world, including the owner, in which case it is a lease, or whether it merely confers a privilege to occupy at the sufferance of the owner, in which case it is a license.

b. ~~"Use Agreement"~~: a type of license granted to another federal agency to use for specific purposes real property controlled by the Department of the Navy when revocation cannot be readily effected for any reason (e.g., because construction is contemplated).

c. ~~"Host-Deniant Real Estate Agreements"~~: a form of Use Agreement granted another component of the Department of Defense for the use of real property under the control of the Department of the Navy.

#### 4. POLICY.

a. Licenses. The use of Navy real property under licenses is authorized only when all the following conditions exist:

(1) The Commanding Officer of the shore (field) activity concerned has reviewed the military aspects of the proposed use to insure that it will not interfere with Navy or Marine Corps use of the property.

(2) The proposed use is of such a nature that revocation can be readily effected.

(3) The use of the property will be of benefit to the Department of the Navy, or otherwise will be in the public interest.

(a) Licensee occupancy will benefit the Department of the Navy when the use of the property by the licensee will aid or support a mission of the Navy.

(b) Licensee occupancy will be in the public interest (a) when the use of the property by the licensee will result in furtherance of a federal program or of a program of a state or political subdivision thereof, or (b) generally when the use of the property by the licensee is associated with charitable, civic, or educational organizations. The established policy expressly prohibits the issuance of a license in lieu of a lease as a device for avoiding any of the requirements of Chapter 19 governing the leasing or property under authority of 10 U.S.C. 2667. This prohibition extends to the issuance of a license in anticipation of the subsequent issuance of a lease subject to the approval and reporting requirements specified in Chapter 19.

#### b. Use Agreements.

(1) Any use of Navy real property by other federal agencies which cannot be readily terminated will be provided for by granting a Use Agreement.

(2) Prior to granting a Use Agreement, the possibility of transferring the property shall be considered. If the Department of the Navy does not have a continuing requirement which precludes release, decision on transferring the property should be reached before any Use Agreement is granted.

(3) The use of Navy real property under a Use Agreement is authorized only when the following conditions exist:

(a) The proposed use will be compatible with the continuing Navy requirement which necessitates retention of the property.

(b) The proposed use will not interfere with the use of adjoining Navy property.

5. AUTHORITY OF THE SECRETARY OF THE NAVY.

The authority of the Secretary of the Navy to grant permissive use of property under his jurisdiction and control is not specifically granted by statute. It is, rather, an incident to his general authority to make the most effective use of property under his control, the exercise of which is a function of the management of such property. His authority to grant licenses for civilian use of reserve component facilities over which he exercises control and accountability is derived from a delegation of authority from the Secretary of Defense.

6. DELEGATION OF AUTHORITY TO COMMANDER, NAVAL FACILITIES ENGINEERING COMMAND.

The Secretary of the Navy by SECNAVINST 11011.11.47 of 20 June 1963 has authorized the Commander, Naval Facilities Engineering Command to take all necessary action to grant, execute, administer, and terminate licenses and use agreements, including licenses for use of reserve component facilities and equipment. The Commander may redelegate this authority within his command and to Commanding Officers of Navy and Marine Corps activities.

Part 2 - LICENSES

7. DELEGATION OF LICENSING AUTHORITY TO COMMANDERS/COMMANDING OFFICERS OF EPDS.

Subject to the limitations of this Chapter, Commanders/Commanding Officers of EPDs are authorized to issue, amend, administer, and terminate licenses for the use of Navy-controlled real property. The authority delegated herein may be redelegated.

8. AUTHORITY TO REDELEGATE TO COMMANDING OFFICERS AND OFFICERS IN CHARGE OF NAVY AND MARINE CORPS ACTIVITIES.

Commanders/Commanding Officers of EPDs are specifically authorized to redelegate their authority to issue, amend, administer, and terminate licenses to Commanding Officers and Officers in Charge of Navy and Marine Corps activities; provided:

- a. The real property involved is under their command.
- b. The license is issued on NAVFAC 11011/29 or 11011/30 Appendixes A and B, respectively, as appropriate without deviation.
- c. The effective period of the license does not exceed one (1) year.
- d. The license does not involve any cash payment, except reimbursement for utilities and/or services furnished to the licensee by the Government.
- e. The license does not permit either any new construction, or the installation, of non-severable improvements.
- f. The annual fair market rental value of the property for its highest and best use does not exceed \$200,000.

9. APPROVALS REQUIRED.

Before the issuance of any license, it must be approved by the Commanding Officer or the Officer in Charge of the activity concerned. In addition, the approval of NAVFAC Headquarters is required when any of the following conditions exists:

- a. The license permits either new construction or the installation of non-severable improvements on the premises.

2. b. The If the license contains substantial changes to standard license forms NAVFAC 11011/29 and 11011/30 it must be reviewed for legal sufficiency by the local EFD/EFA counsel. (Additional provisions solely for the protection of the Government/Navy are not considered substantial changes.) The EFD/EFA shall provide a copy of the changed license to NAVFACENGCOM.

b. e. The If the annual fair market rental value of the property for its highest and best use exceeds \$200,000, the EFD/EFA will forward the license proposal to NAVFACENGCOM to obtain approval of the Armed Services Committees of Congress.

When submission is made to Headquarters for any of the above reasons, it must be so documented and supported that Headquarters may make firm recommendations for any further approvals that are required.

#### 10. REPORT TO THE ARMED SERVICES COMMITTEES.

10 U.S.C. 2662 has been amended to require a report to the Armed Services Committees of Congress of a license for the use of Government property when the estimated annual fair market rental exceeds \$200,000. It is noted that rental value, not the rent paid, is the criterion. ~~When doubt exists as to whether rental value does, or does not, exceed \$200,000, the license proposal should be submitted to this Headquarters for decision.~~

#### 11. IMPORTANCE OF REVOCABILITY.

The essence of a license is that it can be revoked by the licensor at any time, without prior notice. Therefore, each license application must be carefully scrutinized to determine that the proposed use is not of such a character as may impair the Department's ability to exercise its express right of revocation on policy grounds, notwithstanding its contractual right to do so. Particular attention should be given to the effects of possible revocation of any proposed license on institutions of state and local governments and public or quasi-public organizations engaged in education, charitable, youth, veteran or similar activities. If the revocation of a license would either work undue hardship on the licensee or embarrass the Navy or the Marine Corps in their continuing efforts to establish and maintain good community relations, the license shall not be granted.

#### 12. PROCEDURE.

All applications for licenses will be referred to the Commanding Officer/Officer in Charge of the activity concerned for (1) his approval based on his determination that the particular property is available for use and that such use will not interfere with military requirements and (2) an assessment of environmental impact in accordance with OPNAVINST 5090.1. When such approval has been obtained and such assessment has been made, and it is determined that all policy requirements have been met, the EFD will obtain any further approvals required by OPNAVINST 5090.1. Thereafter, a license will be prepared on the form of Appendix "A" or "B", as appropriate, to be effective upon execution by the licensee and satisfaction of all requirements for cash payment, insurance, and deposit for utilities.

#### 13. SPECIAL APPROVAL OF STORAGE OR WAREHOUSE SPACE.

If the proposed license involves the use of storage or warehouse space, the Commanding Officer, prior to giving his approval, should obtain the approval of the Supply Systems Command in accordance with NAVSUPINST 4450.21A.

#### 14. CONSIDERATION.

The issuance of a license is predicated upon its being of some benefit to the Department of the Navy or otherwise being in the public interest.

Whenever use of property under a license will give rise to substantial benefits to a non-federal licensee, payment of a cash consideration for the license will be required, except as otherwise provided in NAVCOMP Manual, Volume 3, Paragraphs 035850, 035851 and 035875. The term "substantial benefits" as used herein may be considered to include, but not be limited to, proceeds of a profit-making venture or commercial enterprise. The amount charged will be determined by all the circumstances in each case, after due comparison with the charges made by private interests in the vicinity for similar privileges. In accordance with DOD Instruction 7230.7, the amount charged shall not be less than the cost to issue and process the license.

15. WAIVER OF CONSIDERATION.

There are certain exceptions from the general requirement for payment of cash consideration by non-federal licensees. These exceptions include organized cooperative groups of a fraternal, civic, or welfare nature. The granting of approval by the Commanding Officer of a Naval or Marine Corps activity to a particular organized cooperative group to operate at the activity is considered to exempt such a group from the requirement for payment of cash consideration. Banking facilities determined by the Treasury Department to be nonself-sustaining are also exempt from the cash-consideration requirement, for so long as they remain on self-sustaining. Upon notification by the Treasury Department that a banking facility has become self-sustaining, the license under which it occupied Navy property should be terminated, and a lease providing for fair market rental should be negotiated in accordance with Chapter 19 of this Manual.

16. INSURANCE REQUIREMENTS.

a. Appendix "A" provides for assumption by a licensee of liability for loss of or damage to Government property and for death, injury or property damage to any third-party resulting from use of the property under the license, and provides for specification of minimum insurance coverage to satisfy such liabilities.

b. Whenever a licensee is a state, county or local government agency precluded by law from assuming the liabilities imposed by the standard form of Appendix "A", such liabilities and attendant insurance requirements shall be waived, and the provisions imposing them shall be expressly cancelled in paragraph 10 on the face of Appendix "A".

c. Whenever it shall be determined that a licensee has demonstrated sufficient financial responsibility to meet all liabilities which may arise under the provisions of Appendix "A" governing loss of or damage to Government property and liability to third-parties, specific insurance coverage may be waived. The extent of evidence sufficient to demonstrate financial responsibility is a matter for the administrative determination of the issuing official on an individual case basis.

d. A license to any organized cooperative group of a fraternal, civic or welfare nature, authorized for operation at a Navy or Marine Corps activity by the Commanding Officer thereof, may be issued free from the general alternative requirements of insurance coverage or demonstration of financial responsibility, but subject to the risk of loss and liability provisions of Appendix "A". Waiver of these requirements shall be expressly recited in paragraph 10 on the face of Appendix "A", which shall also contain a citation of the authority under which the group is operating at the activity. Such

waiver shall not be construed as a general waiver as to third-party liability insurance requirements; accordingly, thorough consideration shall be given to the risks inherent in the proposed use on an individual case basis. If a proposed use is considered so hazardous as to unduly expose the Government to the possibility of third-party claims arising out of such use, third-party liability insurance should not be waived.

e. Unless the requirement therefor is specifically waived pursuant to paragraphs b., c., and d., above, in any case where a license is issued for use of an entire building, the licensee shall be required to procure and maintain fire and extended coverage in an amount not less than its current replacement cost less depreciation, together with such additional coverage as may be considered necessary to protect the Government against any special hazard arising out of the nature of the particular property or the proposed use. When a license shall extend to use of a portion of a building only, Commander/Commanding Officer of the EPD, at his discretion, may restrict the amount of coverage required to the minimum amount necessary to adequately protect the Government's interest, or waive it entirely, giving due consideration to the fact that no waiver of insurance requirements hereunder will operate to relieve licensee of any responsibility assumed for loss or damage to the property.

f. Unless requirements for third-party liability insurance have been waived, pursuant to paragraphs c., d., and e., above, the licensee shall be required to procure and maintain third-party liability insurance in minimum amounts of \$100,000 per person and \$300,000 per accident, for death or personal injury, and \$50,000 property damage.

#### 17. SPECIAL CONDITIONS.

a. Commercial Use of Reserve Component Facilities. Non-federal government licensees may not make an admission charge for functions conducted in a reserve component facility, or engage in the sale of goods or merchandise therein, unless all net profits insure only to non-profit or charitable purposes and further provided that such charges and sales do not constitute unfair competition with private enterprise.

b. Licenses for Use of Excess Property. Commanders/Commanding Officers of EPDs may issue licenses for use of real property which has been reported to General Services Administration as excess property in accordance with the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471), provided the prior approval of the General Services Administration is obtained. Such licenses shall not provide for a term in excess of one year, must be revocable at will, and must be of such a nature as to not interfere with or delay the disposal of the property. The license shall in all respects conform to General Services Administration regulations.

c. Generally, licenses issued to nonself-sustaining banking facilities authorized by the Treasury Department and the Comptroller of the Navy for operation at Navy installations shall contain the following additional provision: "If mutually agreeable, a new license for a term not exceeding five years will be issued when this license expires."

#### 18. SERVICES AND UTILITIES CHARGES.

Licensees shall be required to reimburse the Department of the Navy for the cost of utilities and services furnished, in accordance with applicable statutes and regulations, including NAVCOMPT Manual, Volume 3, paragraphs

035850, 0325851, and 035875. This requirement does not apply to licensees qualifying Treasury Department determination as nonselfsustaining banking facilities. Such licensees will be furnished logistic support without charge. Whoever, the area of space assigned shall not exceed that prescribed by the DOD Construction Criteria Manual.

19. ADMINISTRATION OF LICENSES.

The EPDs shall administer all licenses for use of real property issued by him pursuant to paragraph 7 of this Chapter. In addition to the foregoing, the EPD is responsible for review of all licenses issued by Commanding Officers under their delegated authority, to insure compliance with policies and procedures set forth in this Chapter. Periodic compliance inspections will be made as required to insure that licensees are complying with the terms and conditions of the licenses. Such inspection will also be sufficiently broad to determine if any unauthorized use is being made of the property. It is recognized that personnel limitations may preclude performance of inspections as often as may be desired; therefore, EPDs are encouraged to establish a working relationship with Commanding Officers of activities concerned by means of which the services of the Public Works Officer and his staff may be utilized to supplement the inspection responsibilities of the EPDs.

20. REVOCATION OF LICENSES.

If a determination is made by the EPD or the Commanding Officer or Officer in Charge of an activity that a licensee has failed to fulfill or comply with his obligations under a license, or if revocation is necessary for any other purpose, the official who granted such license shall promptly revoke the license pursuant to the revocation provisions thereof. A copy of such written notice of revocation with explanatory details shall be furnished the EPD and Commander, Naval Facilities Engineering Command.

21. DISTRIBUTION.

Licenses, amendments thereto, and notices of termination will be distributed as follows:

Signed document	Licensee
Signed document	Engineering Field Division
Conformed copy	Activity
Conformed copy (only when cash payment is involved other than for utilities and services)	Naval Regional Finance Center Accounts Receivable & Claims Division (FR 20) Washington, DC 20390 or disbursing officer serving the activity in case of reserve component facilities and non-continental activities (NAVCOMPT Manual, paragraph 043132)
Conformed copy (only to commercial or industrial entities engaged in profit-seeking enterprises)	NAVPAC Headquarters
Conformed copy (only for banking activities)	NAVCOMPT (NCD4)

22. AVAILABILITY OF FORMS.

NAVFAC 11011/29 and 11011/30 may be requisitioned by forwarding a funded DD-282 to your local Naval Publications and Printing Service servicing component.

Part 3 - USE AGREEMENTS

23. WHEN TO USE A USE AGREEMENT.

After meeting the policy requirements paragraph 4.a., the question may still remain whether to issue a license or a use agreement. The basic hallmarks for a use agreement are the lack of easy termination, the long-term requirement by the prospective tenant for the exclusive use of Navy-controlled real property and/or the expenditure by such tenant of substantial amounts of its funds, sometimes appropriated specifically for the proposed use. These elements frequently go together. Despite any words of revocability in these agreements, it must be remembered that these agreements are difficult to revoke at best and impossible where Congress has authorized and appropriated funds to the tenant for the project to be placed on the property for so long as the tenant requires it.

24. DISTINGUISHING OF TERMS.

AS used hereafter in this chapter "Use Agreement" will always refer to such an agreement with another federal department or agency other than a DOD component while the term "Host-Tenant Real Estate Agreement" (HTREA) will refer to such agreements with a component of DOD.

25. DELEGATION OF AUTHORITY TO COMMANDERS/COMMANDING OFFICERS OF EPDS TO GRANT USE AGREEMENTS AND HTREAS.

Subject to the limitations of this Chapter, Commanders/Commanding Officers of EPDs are authorized to grant, amend, administer, and terminate Use Agreements and Host-Tenant Real Estate Agreements for the use of Navy-controlled real property. The authority delegated herein may be redelegated.

26. APPROVALS.

Prior to the granting of a Use Agreement or a Host-Tenant Real Estate Agreement, the EPD will obtain the written approval of the Commanding Officer of the activity concerned, who will obtain the approval of his superiors in the chain of command, if he deems any such approvals to be necessary. In every case where a proposed agreement involved use, for any purpose, of storage and/or warehouse space, the Commanding Officer of the activity concerned will obtain the approval of the Commander, Naval Supply Systems Command, in accordance with NAVSUP Instruction 4450.21A.

27. ASSESSMENT OF ENVIRONMENTAL IMPACT.

The EPD will obtain from the Commanding Officer of the affected activity an assessment of the environmental impact of the proposed agreement, prepared in accordance with OPNAV Instruction 5090.1.

## **28. TERMS AND CONDITIONS.**

a. Each Use Agreement and HTREA shall be in writing and at a minimum shall provide that:

- (1) The grantee shall reimburse the Department of the Navy in accordance with applicable statutes and regulations for the cost of utilities and services furnished.
- (2) The grantee shall not make any structural alterations, additions, or betterments, except in accordance with instructions issued by the Commander, Naval Facilities Engineering Command.
- (3) If the Department of the Navy requires it, the grantee shall remove improvements and restore the Department of the Navy property when the use terminates. The Department of the Navy may waive this condition if it secures the requisite clearances for accepting the improvements before granting the agreement.

b. The duration of the Use Agreement or the HTREA should be based on a realistic forecast of the requirements of both parties.

c. The Department of the Navy shall authorize another component of the Department of Defense use through a HTREA. The HTREA shall prescribe maintenance responsibilities according to DODINST 4000.19 of 15 April 1992 SECNAVINST-4000.24B of 29 June 1973. The EFDs/EFAs will prepare all required Use Agreements and HTREAs patterned from the formats furnished at the end of this Chapter, Appendixes C and D, respectively. Maintenance responsibilities for HTREAs are set forth in DODINST 4000.19 of 15 April 1992 SECNAVINST-4000.4C of 27 December 1994 and must be followed. Greater latitude is permissible and desirable in placing maintenance and other cost responsibilities on the tenant in Use Agreements.

## **29. CHARGES FOR USE OF SPACE BY OTHER FEDERAL AGENCIES.**

According to DODINST 4165.6 of 1 September 1987, unless specified differently in other DOD regulations, other federal agencies shall be charged fair market rates for use of DOD space. Exceptions to this policy are:

a. Real property and related services provided to an organization that solely supports or substantially benefits the installation's mission (e.g., a permit to a FAA Air Controller on an air station or a permit to the Federal Communications Commission for a communication tower.)

b. Property held under existing permits. Agencies should only be charged when entering into new permits or on renewal of existing permits.

c. Cases in which the income produced by a charge is less than the expense of administering the charge.

d. Permits in the nature of an easement granting a right-of-way for roads, pipelines, cables, or similar purposes.

## **30. ADMINISTRATION OF USE AGREEMENTS AND HOST-TENANT REAL ESTATE AGREEMENTS.**

The EFDs/EFAs are responsible for administering all Use Agreements and Host-Tenant Real Estate Agreements. The EFDs/EFAs should seek the cooperation of the Commanding Officer of the host activity in this regard. As Commanding Officers ~~he~~ will be responsible for entering into and administering the Inter-Service Support Agreement (ISA) that normally accompanies these agreements, ~~their~~ ~~his~~ direct interest can be assumed.

31. NO REAL ESTATE AGREEMENT BETWEEN NAVY AND/OR MARINE CORPS ACTIVITIES.

Where a Navy or Marine Corps activity is the host to another Navy or Marine Corps activity as a tenant, no real estate instrument is used. The relationship is established and defined by an Intra-Service Support Agreement entered into by the Commanding Officers involved. EPDs have no part in this type transaction.

32. REVOCATION OF USE AGREEMENTS AND HOST-TENANT REAL ESTATE AGREEMENTS.

Use agreements and Host-Tenant Real Estate Agreements should be terminated by the EPD only with the consent of the tenant activity. Revocation for any other reason will only be done after Headquarters approval has been obtained. If a tenant is failing to comply with his obligations under the agreement, every effort should be made locally to obtain such compliance. If this is unsuccessful, that matter will be referred to Headquarters with appropriate recommendations.

33. DISTRIBUTION.

Use Agreements and Host Tenant Real Estate Agreements will be distributed as follows:

Original	EPD
Duplicate Original	Tenant activity
Conformed copy	Commanding Officer of host activity
Conformed copy	Commander, Naval Facilities Engineering Command

(804) 445-2366

12011 General  
241A1

JUL 30 1992

MEMORANDUM FOR DISTRIBUTION

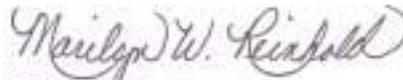
Subj: INDEMNIFICATION CLAUSE FOR OUTGRANTS

Ref: (a) Discussion NAVFACENGCOM, J. Wittmann (Code 09C),  
LANTNAVFACENGCOM, M. Reinhold (Code 241) and  
J. Bradley (Code 241A1)

1. During reference (a), Code 09C, John Wittmann, requested that the following clause, or reasonable facsimile, be added to all new and succeeding outgrant instruments.

**INDEMNIFICATION** The holder agrees that the government (or U.S. or Navy), its officers, agents, and employees shall be released from all liability on all suits, claims, actions, or demands in any way related to or arising under the holder's use of the property. This release includes, but is not limited to, all environmental suits, claims, and enforcement actions, whether arising during the holder's construction on or use of the property, or after such use has ended.

2. It is not necessary that modifications or amendments be issued specifically to cover this clause, however, efforts should be made to include this clause in the event any modification or amendment is prepared for any other reason.



MARILYN W. REINHOLD  
Acting Director  
Real Estate Division

DISTRIBUTION:  
09C  
09P  
24  
241  
242

**LICENSE FOR NONFEDERAL USE OF REAL PROPERTY**  
 NAVFAC 1181129 8-78 (Supersedes NavFac 226)

LICENSE NUMBER

THIS LICENSE TO USE THE U.S. GOVERNMENT PROPERTY HEREIN DESCRIBED IS ISSUED BY THE DEPARTMENT OF THE NAVY TO THE LICENSEE NAMED BELOW FOR THE PURPOSE HEREIN SPECIFIED UPON THE TERMS AND CONDITIONS SET FORTH BELOW AND THE GENERAL PROVISIONS ON THE REVERSE SIDE HEREOF. BY THE EXECUTION HEREOF THE LICENSEE AGREES TO COMPLY WITH ALL SUCH TERMS, CONDITIONS AND GENERAL PROVISIONS.

1. NARRATIVE ACTIVITY (Property location)	2. DATES COVERED (inclusive)
	FROM TO

3. DESCRIPTION OF PROPERTY (include room and building numbers where appropriate)

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4. PURPOSE OF LICENSE

5. LICENSEE UNITED STATES OF AMERICA DEPARTMENT OF THE NAVY	5a. LOCAL REPRESENTATIVE, DEPT. OF NAVY OFFICIAL (Title and address)
6. LICENSEE (Name and address)	6a. LOCAL REPRESENTATIVE (Name and address)

7. CASH PAYMENT BY LICENSEE (Payable in advance)  
 (If no cash payment is required, enter "None" under item 7a "Amount")

7a. AMOUNT (Cash payment)	7b. FREQUENCY PAYMENTS DUE	7c. FIRST DUE DATE	7d. TO (Title and address of local representative of the Government)
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8. DEPOSIT FOR UTILITIES AND SERVICES (Payable in advance)  
 (If no cash payment is required, enter "None" under item 8a "Amount")

8a. AMOUNT (Cash deposit)	8b. FREQUENCY PAYMENTS DUE	8c. FIRST DUE DATE	8d. TO (Mailing address)
---------------------------	----------------------------	--------------------	--------------------------

9. INSURANCE REQUIRED BY LICENSEE OF LICENSEE  
 (If any or all insurance requirements have been waived, enter "None" in 9a, 9b, or 9c as appropriate)

TYPE	MINIMUM AMOUNT	TYPE	MINIMUM AMOUNT
9a. FIRE AND EXTENDED COVERAGE	\$	9d. THIRD PARTY PERSONAL INJURY PER PERSON	\$
9b. THIRD PARTY PROPERTY DAMAGE	\$	9e. THIRD PARTY PERSONAL INJURY PER ACCIDENT	\$

10. GENERAL PROVISIONS (See Reverse Side)

11. EXECUTION OF LICENSE

FOR	BY		DATE
	NAME AND TITLE (Typed)	SIGNATURE	
DEPARTMENT OF THE NAVY			
LICENSEE			

If Licensee is a Corporation, Certification of signature is attached

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## 18. GENERAL PROVISIONS

- a. The Licensee hereby grants to the Licensor the right to use the premises or facilities described in item 2, together with the necessary rights of ingress and egress.
- b. This License shall be effective for the period stated in item 2 and it shall be in any case no longer in force at the expiration and termination of the License or its duly authorized representative.
- c. The site shall be leased to the purposes specified herein.
- d. The Licensee shall be neither assignable nor transferable by the Licensee.
- e. If utilities and services are furnished the Licensee for its use at the premises the Licensee shall reimburse the Licensor for the cost thereof as determined by the Licensor in accordance with applicable statutes and regulations.
- f. The Licensee, at its own cost and expense, shall protect, maintain, and keep in good order, the premises or facilities licensed hereby. At the discretion of the Licensor this obligation shall include, but not be limited to, contributions toward the expense of long-term maintenance of the premises or facilities, the necessity for which occurred during the period of Licensee's use. The amount of expense to be borne by the Licensee shall be determined by prorating the total expense of the work of long-term maintenance on the basis of fractional use by the Licensee. This fractional part of the total expense shall be prorated further if the work of long-term maintenance did not accrue in its entirety during the Licensee's use. Upon a determination by the Licensor that the necessary work for an expenditure of funds for maintenance, protection, preservation or repair, the Licensee shall pay to the Licensor its proportionate share, as demanded.
- g. No additions to, or alterations of, the premises or facilities shall be made without the prior consent of the Licensor. Upon revocation or termination of the License, to the extent directed by the Licensor, the Licensee shall remove all alterations, additions, improvements and improvements made, or installed, and restore the premises or facilities to the same, or to good condition as existed on the date of entry under this License, reasonable wear and tear excepted.
- h. The Licensee shall be liable for any loss of, or damage to, the premises or facilities incurred as a result of its use and shall make such restoration or repair, or monetary compensation as may be directed by the Licensor. The Licensee's liability for loss or damage to the premises resulting from risks expressly required to be insured hereunder shall not exceed the amount of insurance so required. The Licensee shall not be liable for loss of, or damage to, the premises arising from causes beyond the control of the Licensee and recognized by a full and fair fact covered by insurance and not customarily covered by insurance in the locality in which the premises are situated. Nothing contained herein, however, shall release the Licensee of liability with respect to any loss or damage to the premises, not fully compensated for by insurance, which results from willful misconduct, lack of good faith, or failure to exercise due diligence, on the part of the Licensee. All insurance required of the Licensee on the premises shall be for the protection of the Licensor and the Licensee against their respective risks and liabilities in connection with the premises. Each policy of insurance against loss or damage to Government property shall name the Licensor and the United States of America, Department of the Navy, as the insured and shall contain a loss payable clause reading substantially as follows:  
"Let, if any, under this policy shall be adjusted with (Name of Licensee) and the proceeds, at the direction of the Government, shall be payable to (Name of Licensee), and payments may be paid to (Name of Licensee) shall be payable to the Treasurer of the United States of America."
- i. In the event that any loss or part of the premises or facilities shall require repair, rebuilding or replacement resulting from loss or damage, the risk of which is assumed under this paragraph h, the Licensee shall promptly get notice thereof to the Licensor and, to the extent of its liability as provided in this paragraph, shall, upon demand, either complete the Government for such loss or damage, or rebuild, replace or repair the loss or cause of the premises or facilities as lost or damaged, or the Licensee may elect. If the cost of such repair, rebuilding, or replacement exceeds the liability of the Licensee for such loss or

damage, the Licensee shall effect such repair, rebuilding or replacement if required to do so by the Licensor, and such amount of cost shall be reimbursed to the Licensee by the Licensor. In the event the Licensee shall have effected any repair, rebuilding or replacement which the Licensor is required to effect pursuant to this paragraph, the Licensee shall direct payment to the Licensor of so much of the proceeds of any insurance carried by the Licensee and made available to the Government on account of loss of or damage to any cause or part of the premises or facilities as may be necessary to enable the Licensor to effect such repair, rebuilding or replacement. In event the Licensee shall not have been required to effect such repair, rebuilding, or replacement, and the insurance proceeds effective to the loss or damage which has created the need for such repair, rebuilding or replacement have been paid to the Licensee, the Licensee shall promptly refund to the Licensor the amount of such proceeds.

1. The Licensee shall indemnify and save harmless the Government, its officers, agents, servants and employees from all liability under the Federal Tort Claims Act (42 Stat. 689, 48 U.S.C. Sec 2671, 2680) or otherwise, for death or injury to all persons, or loss or damage to the property of all persons resulting from the use of the premises by the Licensee, and shall furnish the insurance specified in item 9. Each policy of insurance required in item 9 covering bodily injury and third party property damage shall contain an endorsement reading substantially as follows:

"The insured waives any right of subrogation against the United States of America which might arise by reason of any payment made under this policy."

2. All insurance required by the Licensee shall be in such form, for such periods of time, and with such amounts as the Licensor may require or approve. A certificate of insurance or a certified copy of such policy of insurance taken out hereunder shall be deposited with the Licensor's local representative prior to use of the premises and facilities. The Licensee agrees that not less than thirty (30) days prior to the expiration of any insurance required by this License, it will deliver to the Licensor's local representative a certificate of insurance or a certified copy of such renewed policy to cover the same risks.

3. No member of or Delegate to Congress, or Resident Commissioner shall be admitted to any state or part of the Licensee or to any benefit that may arise therefrom; but this provision shall not be construed to extend to the Licensee if made with a corporation for its general benefit.

4. The Licensee warrants that it has not employed any person to solicit or secure this License upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Government the right to annul this License or in its discretion to recover from the Licensee the amount of such commission, percentage, brokerage or contingent fee in addition to the consideration herein set forth. This warranty shall not apply to commissions payable by the Licensee upon contracts or sales entered or made through bona fide established commercial or selling agencies maintained by the Licensee for the purpose of securing business.

5. In connection with the performance of work under this License, the Licensee agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The affected provisions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Licensee agrees to post notices in conspicuous places accessible to employees and applicants for employment, except to be provided by the Licensor setting forth the provisions of the nondiscrimination clause. The Licensee further agrees to assert the foregoing provisions in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

6. All interests authorized hereunder shall be subject to such rules and regulations as regards supervision or otherwise, as may, from time to time, be prescribed by the local representative of the Licensee as designated in item 5a.

**LICENSE FOR USE OF REAL PROPERTY BY OTHER FEDERAL AGENCIES**  
 NAVAL FAC 110/USN 4-70 (Supersede Handbook 226)

LICENSE NUMBER

THE LICENSE TO USE THE U. S. GOVERNMENT PROPERTY HEREIN DESCRIBED IS ISSUED BY THE DEPARTMENT OF THE NAVY TO THE LICENSEE NAMED BELOW FOR THE PURPOSE HEREIN SPECIFIED UPON THE TERMS AND CONDITIONS SET FORTH BELOW AND THE GENERAL PROVISIONS ON THE REVERSE SIDE HEREOF. BY THE EXECUTION HEREOF THE LICENSEE AGREES TO COMPLY WITH ALL SUCH TERMS, CONDITIONS AND GENERAL PROVISIONS.

1. NAVAL ACTIVITY (Priority Location)	2. DATES COVERED (Months)
	FROM TO

3. DESCRIPTION OF PROPERTY (Include room and building numbers where appropriate)

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4. PURPOSE OF LICENSE (Include specific use, and specific items used if in the usual or recurring performance basis)

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5. LICENSEE  DEPARTMENT OF THE NAVY	7a. LEGAL REPRESENTATIVE—DEPT. OF NAVY OFFICIAL (Name and address)
6. LICENSEE (Name and address, give full agency designation)	7b. LEGAL REPRESENTATIVE OF LICENSEE (Name and address)

7. GENERAL PROVISIONS (See Reverse Side)

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8. EXECUTION OF LICENSE			
FOR	BY		DATE
	NAME AND TITLE (Typed)	SIGNATURE	
DEPARTMENT OF THE NAVY			
LICENSEE			

## 7. GENERAL PROVISIONS

- a. The Licensor hereby grants to the Licensee permission to use the premises or facilities specified in item 3 together with the necessary rights of ingress and egress.
- b. This License shall be effective during the period stated in item 2 and is revocable at any time without notice at the option and discretion of the Licensor or its duly authorized representative.
- c. The use to be made of the subject premises shall be limited to that specified in item 4.
- d. This License shall be neither assignable nor transferrable by the Licensee.
- e. If utilities and services are furnished the Licensee for its use of the premises, the cost thereof will be reimbursed to the Licensor pursuant to applicable statutes and regulations governing such reimbursement.
- f. The Licensee shall protect, maintain and keep in good order the premises or facilities licensed hereby. This obligation includes responsibility for all costs incurred for any maintenance and repair (including long-term maintenance) which the Licensee shall consider necessary or desirable in connection with its occupancy hereunder.
- g. Any item of long-term maintenance, or any additions to, or alterations of, the premises or facilities which the Licensee shall consider necessary or desirable in connection with its use and occupancy shall be made only with the prior approval and consent of the Licensor and at the sole cost and expense of the Licensee. Upon revocation, expiration, or surrender of this License, and to the extent directed by the Licensor, the Licensee shall remove all alterations, additions, betterments and improvements made, or installed, and restore the premises or facilities to the same or as good condition as existed on the date of entry under the License, reasonable wear and tear excepted.
- h. All activities authorized hereunder shall be subject to such rules and regulations as regards supervision or otherwise, as may, from time to time, be prescribed by the local representative of the Licensor designated in item 5a.

APPENDIX C

All correspondence in connection with this contract should include reference to NF(R)-\_\_\_\_\_

Use Agreement

(Installation)

This Use Agreement between the Department of the Navy (hereinafter called NAVY) and the \_\_\_\_\_ (hereinafter called TENANT) provides for the use by the TENANT of Facilities at the \_\_\_\_\_ in connection with \_\_\_\_\_

1. TENANT shall have exclusive use of the area, containing \_\_\_\_\_ acres, more or less, delineated with legend on \_\_\_\_\_ Drawing No. \_\_\_\_\_, marked Exhibit "A", attached hereto and made a part hereof, (add buildings and cite other exhibits as appropriate).
2. TENANT shall have the right to use in common with NAVY, and with such other parties as NAVY may authorize:
  - (a) An area of \_\_\_\_\_ acres, more or less, delineated with legend or said Exhibit "A", (add buildings and cite other exhibits as appropriate);
  - (b) All roads (other than that described in Exhibit "\_\_\_") and all water, electric power, and signal lines, as shown on said Exhibit "A".

3. Siting of TENANT facilities shall conform with the Station Master Plan except as otherwise provided in writing by NAVY. Standards of design and construction shall conform with criteria and directives of NAVY.
4. TENANT shall not transfer or assign the use herein granted.
5. TENANT shall not make any structural alternation, addition or betterments of NAVY owned property without coordination and written consent of \_\_\_\_\_ Division, Naval Facilities Engineering Command.
6. Any alternations, additions or betterments to the premises which TENANT considers necessary or desirable in connection with its use, shall be at TENANT's sole cost and expense.
7. If requested by NAVY, upon termination of this Agreement, TENANT shall remove improvements and restore the premises to a condition equivalent to that at the time of TENANT occupancy, reasonable wear and tear excepted. (This condition may be waived if requisite clearances for accepting the improvements are secured before the agreement is granted.)
8. TENANT shall reimburse NAVY for the cost of utilities and services, if any, furnished in accordance with applicable statutes, regulations and instructions.
9. NAVY reserves the right to use the premises providing such use will not interfere with the use hereby granted.

10. All activities authorized hereunder shall be subject to such rules and regulations as regards supervision or otherwise as may from time to time be prescribed by the Installation Commander, who is hereby designated as the Local Representative of NAVY.

THIS USE AGREEMENT shall be effective on \_\_\_\_\_ and remain in effect until \* \_\_\_\_\_, unless sooner terminated by the Secretary of the Navy. (\*NOTE: For Agreements of indefinite term, state "until terminated by the Secretary of the Navy.")

FOR THE DEPARTMENT OF THE NAVY

Concurrences:

\_\_\_\_\_  
(Installation Commanding Officer)

\_\_\_\_\_  
(Date)

By \_\_\_\_\_

\_\_\_\_\_  
(Date)

FOR THE DEPARTMENT OF THE

\_\_\_\_\_  
By \_\_\_\_\_

\_\_\_\_\_  
(Date)

APPENDIX D

All correspondence in connection with this contract should include reference to NF(R)-\_\_\_\_\_

HOST-TENANT REAL ESTATE AGREEMENT

\_\_\_\_\_  
(Installation)

THIS AGREEMENT between the Department of the Navy (hereinafter called Host) and the Department of the \_\_\_\_\_ (hereinafter called TENANT) provides for the use by the Tenant of Facilities at the \_\_\_\_\_ in connection with \_\_\_\_\_

1. TENANT shall have exclusive use of the areas, containing \_\_\_\_\_ acres, more or less, delineated with legend on \_\_\_\_\_ Drawing No. \_\_\_\_\_, marked Exhibit "A", attached hereto and made a part hereof, (add buildings and cite other exhibits as appropriate);

2. TENANT shall have the right to use in common with HOST, and with such other parties as HOST may authorize:

(a) An area of \_\_\_\_\_ acres, more or less, delineated with legend on said Exhibit "A", (add buildings and cite other exhibits as appropriate);

(b) All roads (other than that described in Exhibit "\_\_\_\_") and all water, electric power, and signal lines, as shown on said Exhibit "A".

3. Siting of TENANT facilities shall conform with the Station Master Plan except as otherwise provided in writing by HOST. Standards of design and construction shall conform with criteria and directives of HOST.

4. Property accounting shall be in accordance with procedures prescribed by Navy Controller Manual (reference DODINST 4165.14 of 21 December 1966 and NAVFAC P-78 of August 1992).

5. In addition to this Host-Tenant Real Estate Agreement, there also shall be a separate Interservice Support Agreement prescribing the respective operations and services to be performed by HOST and TENANT. The financial responsibilities under this Host-Tenant Real Estate Agreement shall be in accordance with DODINST 4000.19 of 15 April 1992, SECNAVINST 7020.4C/AR-37-19/AFR-172-3 of 27 December 1974 and SECNAVINST 4000.20B/AR-1-35/AFR-400-27/DNAINST 4000.19 of 29 June 1973.

6. Prior to the initiation of any major structural changes in a building and/or demolition or removal of a structure, TENANT shall obtain written authorization therefor from HOST. Upon revocation, expiration or surrender of this agreement, and to the extent directed by HOST, TENANT shall remove all alterations, additions, betterments and improvements made, or installed, and restore the premises or facilities to the same or as good condition as existed on the date of entry under this agreement, reasonable wear and tear excepted. (When appropriate, the following optional paragraph 6 should be used in place of the foregoing)

6. Prior to the initiation of any major structural changes in a building and/or demolition or removal of a structure, TENANT shall obtain written authorization therefor from HOST. Permanent structural changes additions or installations accomplished and financed by TENANT during occupancy shall remain in place (and be left in condition comparable with the rest of the building or structure). Temporary structural changes, additions, alterations or installations may be removed by TENANT, at its option, after giving notice of its intent, provided that, if removal is accomplished, the building or structure shall be returned to its original condition, upon the request of HOST.

7. The land and improvements, existing and to be constructed, shall be carried on the Inventory of Military Real Property of the HOST. (Note: If new construction is to be carried on the Inventory of the TENANT, this paragraph shall be modified to so state.)

THIS AGREEMENT shall be effective \_\_\_\_\_ and remain in effect until \* \_\_\_\_\_, unless sooner terminated by the Secretary of the Navy. (\*NOTE: For Agreements of indefinite term, state "until terminated by the Secretary of the Navy." For Agreements involving construction with funds appropriated to the TENANT, the phrase "until terminated by mutual consent" may be used.)

FOR THE DEPARTMENT OF THE NAVY

Concurrences:

By \_\_\_\_\_

\_\_\_\_\_  
(Commanding Officer, HOST Unit)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

FOR THE DEPARTMENT OF THE

\_\_\_\_\_  
By \_\_\_\_\_

\_\_\_\_\_  
(Commanding Officer, TENANT Unit)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)