

CHAPTER 20

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

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CHAPTER 20

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

SECTION I - GENERAL

1. **BACKGROUND.** Historically, the military departments have granted the temporary use of property for private purposes by means of instruments known as "revocable permits." However, the Navy prefers the term "license," which conforms to general usage in the commercial world. The proposed use of Navy property authorized by a license should generally benefit the Government or otherwise have a public interest.

2. **DEFINITIONS**

a. **License/Permit.** An authorization, revocable at will of the licensor and unassignable, to an individual, an organization, a legal entity, a state or local governmental authority, or another Federal agency, to use property controlled by the Department of the Navy (DON) for specific purposes without conferring any possessory interest or estate. Although the terms "license" and "permit" may be used interchangeably, Navy generally uses the term "license."

(1) A license is an exercise of the Navy's management prerogative. It is merely permission to take an authorized action upon the property, and absent that permission, the action would constitute a trespass.

(2) The test to determine whether an agreement for the use of real estate is a license or a lease is whether it grants exclusive possession of the premises against the entire world, including the owner, in which case it is a lease. If the agreement merely confers a privilege to occupy at the pleasure of the owner, meaning it is revocable at will on under the terms of the agreement, it is a license. The two are also distinguished by the civil procedure to enforce them. The action for lease default is one in eviction, while the action for license default is brought in trespass.

(3) A license is distinguished from an easement in that an easement confers an irrevocable right of use referred to as a non-possessory interest in the real property, while a license is revocable at the will of the owner and grants no interest in land.

b. **Use Agreement.** A type of license granted to another Federal agency to use for specific purposes property controlled

by DON when revocation cannot be readily effected for any reason (e.g., because construction is contemplated).

c. Host-Tenant Real Estate Agreement (HTREA). A form of Use Agreement granted to another component of the Department of Defense (DOD) for the use of property under the control of DON.

d. Property. The term "property" refers to real property unless otherwise specifically noted.

REFERENCES

- (a) [SECNAVINST 3770.1C of 15 Dec 1992](#)
- (b) [OPNAVINST 5112.6D of 17 Mar 2007](#)
- (c) [DODI 4000.19 of 9 Aug 1995](#)
- (d) NAVSUPMANUAL VOL II, Chapter 7, Part G
- (e) [Federal Property and Administrative Services Act of 1949](#)
[\(40 U.S.C. §§ 471-535\)](#)
- (f) 10 U.S.C. § 2667
- (g) [SECNAVINST 11011.47B of 12 Jan 2009](#)
- (h) 10 U.S.C. § 2662
- (i) [OPNAVINST 5090.1C of 18 Oct 2007](#)
- (j) (reserved)
- (k) DOD FMR, Vol. 11a, Chapter 4, Section 040404
- (l) Comp. Gen. 1 (B-241319) (1991 WL 210698 71)
- (m) [NAVFACINST 11010.45\(3\), Comprehensive Regional Planning Instruction, Site Approval Process](#), of 31 May 2001
- (n) 10 U.S.C. § 2667(e)(1)(A)
- (o) 12 U.S.C. § 1770
- (p) [SECNAVINST 5820.7C of 26 Jan 2006](#)

4. SCOPE. This chapter prescribes the policy and procedures and cites the delegations authority and responsibility for the issuance, amendment, administration, and termination of licenses, use agreements, and host tenant real estate agreements for the use of property owned, leased, or otherwise controlled by DON.

5. SCOPE LIMITATIONS

a. This chapter is not applicable to the use of Navy property under the following circumstances that are governed by

other instructions and regulations:

(1) Oral or written authorizations granted by or under the authority of the head of an installation for day-to-day command and administration, such as for visitors and tradesmen doing business with installation officers and personnel.

(2) Use of property supplied in accordance with the [Federal Acquisition Regulation \(FAR\)](#) required for the performance of a Government contract for the procurement of supplies, services, construction, utilities, or other commodities.

(3) Use of DON aviation facilities by other than DOD aircraft according to [reference \(a\)](#).

(4) Agreements for U.S. Postal Service facilities supplied according to U.S. Navy Postal Instruction, [reference \(b\)](#).

(5) U.S. Postal Office facilities are supplied under an interservice support agreement ([reference \(b\)](#)) between the Commanding Officer or Officer in Charge of the activity concerned and the Postal Service. No real estate agreements are issued, ([reference \(c\)](#)).

(6) Agreements for Special Uses covered in **P-73, Chapter 22**.

(7) Cross-servicing agreements for use of storage and warehousing facilities by other military departments in accordance with reference (d).

(8) Property reported as excess to General Services Administration (GSA).

(a) For licenses covering excess property, DON acts only as agent for and on behalf of GSA under the authority of [reference \(e\)](#) and related regulations issued by GSA.

(9) Lands of the Naval Petroleum and Oil Shale Reserve.

6. POLICY

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

(1) The activity Commander/Commanding Officer 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 benefit the Department of the Navy/Marine Corps, or otherwise will be in the public interest.

(a) Navy/Marine Corps Benefit. Use by the licensee will aid or support a mission of the Navy/Marine Corps.

(b) Public Interest. The use of the property by the licensee will be in the public interest when it will further a program of the Federal Government, a state, or political subdivision of a state government, or 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 instead of a lease as a device for avoiding any of the requirements of P-73, Chapter 19, governing the leasing of property under authority of [reference \(f\)](#). 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 [P-73, Chapter 19](#).

b. Use Agreements

(1) Any use of Navy property by other Federal agencies that cannot be readily terminated will be granted by a Use Agreement.

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

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

(a) The proposed use will be compatible with the continuing Navy/Marine Corps requirement that necessitates retention of the property.

(b) The proposed use will not interfere with the use of contiguous or adjoining Navy/Marine Corps property.

c. Site Approval. All applications for licenses and Use Agreements shall be processed for site approval as specified in reference (m).

7. **AUTHORITY OF THE SECRETARY OF THE NAVY**. No statute specifically gives authority to the Secretary of the Navy to grant permissive use of property under his/her jurisdiction and control. The Secretary does have the general authority to exercise management and make the most effective use of the property. His/her authority to grant licenses for civilian use of Reserve Component Facilities over which he/she exercises control and accountability is derived from a delegation of authority from the Secretary of Defense.

8. **DELEGATION OF AUTHORITY TO COMMANDER, NAVAL FACILITIES ENGINEERING COMMAND (COMNAVFACENGCOM)**

Pursuant to reference (g), the Secretary of the Navy has authorized the Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) 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. COMNAVFACENGCOM may redelegate this authority within his/her command and to Commanders/Commanding Officers of Navy and Marine Corps activities.

SECTION II - LICENSES

9. **DELEGATION OF LICENSING AUTHORITY TO FACILITIES ENGINEERING COMMAND (FEC) COMMANDERS/COMMANDING OFFICERS**. Subject to the limitations of this Chapter, FEC Commanders/Commanding Officers are authorized to issue, amend, administer, and terminate licenses for the use of Navy-controlled property. This authority may be redelegated.

10. **AUTHORITY TO REDELEGATE TO COMMANDERS/COMMANDING OFFICERS IN CHARGE OF NAVY AND MARINE CORPS ACTIVITIES**

a. FEC Commanders/Commanding Officers are specifically authorized to re-delegate their authority to issue, amend, administer, and terminate licenses to Commanders/Commanding Officers in Charge of Navy and Marine Corps activities under the following conditions:

(1) The property involved is under the command of the Commanders/Commanding Officers in charge of Navy and Marine Corps activities.

(2) The license is issued on the forms indicated in this Chapter, as appropriate without deviation.

(3) The effective period of the license does not exceed one (1) year.

(4) The license does not involve any cash payment, except reimbursement for utilities and/or services furnished to the licensee by the Government.

(5) The license does not permit new construction or the installation of non-severable improvements.

(6) The annual fair market rental value of the property for its highest and best use does not exceed \$750,000.

(7) License terms of one year duration shall not be piggy-backed resulting in periods of usage exceeding the one year term in order to avoid the long-term license approval process.

(8) The policies contained in [reference \(g\)](#) are followed.

11. APPROVALS REQUIRED

a. Before the issuance of any license, it must be approved by the Commander/Commanding Officer in-Charge of the activity concerned. For Navy property, any license exceeding one year must be approved by the Regional Commander, and any license exceeding 5 years must also be approved by the Commander, Navy Installations Command (CNIC). For Marine Corps property, Commandant of the Marine Corps (CMC) approval is required for any license exceeding one year.

b. In addition:

(1) If the license contains substantial changes to the forms indicated in this Chapter, it must be reviewed for legal sufficiency by the local Facilities Engineering Command (FEC) counsel, and approved by Commander, Naval Installations Command (CNIC). (Additional provisions solely for the protection of the Government/Navy are not considered substantial changes.) The FEC will deliver a copy of the changed license to COMNAVFACENGCOM.

(2) If the annual fair market rental value of the property for its highest and best use exceeds \$750,000, the FEC

will forward the license proposal to COMNAVFACENGCOM to obtain approval of the Armed Services Committees of Congress. When submission is made to COMNAVFACENGCOM, it must be so documented and supported that COMNAVFACENGCOM may make firm recommendations for any further approvals that are required.

(3) Check the guidance in [Policy Memo 06-06 \(5 July 2006\)](#) of the Assistant Secretary of the Navy (Installations & Environment) to the Deputy Chief of Naval Operations and the Deputy Commander, Naval Installations Command ("Streamlined Procedures Applicable to non-BRAC Real Estate Actions"). Determine judiciously the efforts to be made to comply with the checklist of outgrant actions on page 5 that present minimal risk/liability to DON.

(4) In accordance with [reference \(p\)](#), a license to a civilian law enforcement agency to use Navy land and facilities for more than sixty (60) days must receive the prior approval of the Assistant Secretary of the Navy (Manpower and Reserve Affairs) or his/her designee.

12. REPORT TO THE ARMED SERVICES COMMITTEES. According to [reference \(h\)](#), the Secretary of a military department or designee may not enter into a license for the use of Government property if the estimated annual fair market "rental value" is more than \$750,000 until after 30 days from the date upon which a report of the facts concerning the proposed transaction is reported to the Armed Services Committees of Congress, or 14 days if the report was submitted electronically. **Note** that "rental value," not the rent paid, is the criterion.

13. IMPORTANCE OF REVOCABILITY

a. The essence of a license is that it can be revoked by the licensor at any time, without notice. It has been the practice of DON to make licenses revocable at will without advance notice of revocation. Therefore, each license application should be carefully scrutinized to determine that the proposed use will not impair the licensor's ability to exercise its express right of revocation. Particular attention should be paid to the impacts of possible revocation of any proposed license on state and local governmental institutions and public or quasi-public organizations engaged in education, charitable, youth, veterans, 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 should not be granted. Licenses proposed for issuance to private users should not, as a rule, be

issued as a substitute for a lease or to avoid the outleasing policies outlined in Chapter 19.

b. Further, licenses issued to Federal agencies may, in fact, not be construed as temporary by the licensee agency, and therefore may prove to be something less than readily revocable by the Navy/Marine Corps for a variety of reasons. Accordingly, long-term Federal use of Navy/Marine Corps property should be memorialized in a Use Agreement or other appropriate instrument.

14. PROCEDURE. All applications for licenses will be referred to the Commander/Commanding Officer in charge of the activity concerned for (1) approval based on his/her 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 [reference \(i\)](#). When that approval has been obtained and the environmental assessment has been made, and it is determined that all policy requirements have been met, the FEC will obtain any further approvals required by [reference \(i\)](#). Thereafter, a license should be prepared on the appropriate form, to be effective upon the licensee's execution and satisfaction of all requirements for cash payment, insurance, and deposit for utilities.

15. CONSIDERATION.

a. The issuance of a license is predicated upon it being of some benefit to the DON or otherwise being in the public interest. Whenever use of property under a license will create a "special benefit" to a non-Federal licensee, payment of a cash consideration for the license will be required except as otherwise provided in [reference \(k\)](#). The term "special benefit" 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. According to [reference \(k\)](#), the amount charged must not be less than the cost to issue and process the license.

b. All proceeds received from licenses shall be deposited into the special account established under [reference \(n\)](#). In-kind consideration for licenses is not authorized.

c. No-cost licenses may be issued for use of Navy property by credit unions meeting membership criteria and other conditions stated in [reference \(o\)](#). Also see P-73, Chapter 19, paragraphs 54-58, for further guidance.

16. WAIVER OF CONSIDERATION

a. FEDERAL AGENCIES. The interdepartmental waiver doctrine as stated in [reference \(1\)](#) prohibits a Federal agency from paying for the use or repair of property controlled by another Federal agency unless authorized by statute. The doctrine does not bar a Federal agency from charging for reimbursable/utility services it provides and any damages resulting from the use of the property.

b. NON-FEDERAL AGENCIES. There are certain exceptions from the general requirement for payment of cash consideration by non-Federal licensees. These exceptions include:

(1) Organized cooperative groups of a fraternal, civic, or welfare nature;

(2) A particular organized cooperative group granted approval by the Commander/Commanding Officer of a Naval or Marine Corps activity to operate at the activity. (This is considered to exempt that group from the requirement for payment of cash consideration.)

17. INSURANCE REQUIREMENTS

a. The standard license form for non-Federal users is affixed as Appendix A and requires a licensee to assume liability for loss of or damage to Government property and for death, injury, or property damage to any third-party. A matrix of suggested coverage amounts can be found at the end of the Appendix to Chapter 19 of the P-73.

b. Whenever a licensee is a state, county, or local government agency is precluded by law from assuming the liabilities imposed by Appendix A, the liabilities and attendant insurance requirement should be waived, the block 9 of the face page of the form of license should be so noted, and section "1" of the general provisions should be deleted.

c. A license to any non-profit charitable entity approved by the Commander/Commanding Officer to occupy space on the Installation may be issued free from the 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 should be noted in paragraph 9 on the face of Appendix A, which shall also contain a citation of the authority under which the group is operating at the activity. The waiver shall not be construed as a general waiver for third-party liability insurance

requirements. However, thorough consideration should be given to the risks inherent in the proposed use on an individual case basis. If a proposed use is considered so hazardous that it unduly exposes the Government to the possibility of third-party claims arising out of the use, third-party liability insurance should not be waived.

d. For other insurance requirements, and additional insurance information, see Section V of [Chapter 19](#) of this P-73.

18. MISCELLANEOUS

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, unless all net profits benefit only non-profit or charitable purposes, and further provided that those charges and sales do not constitute unfair competition with private enterprise.

b. Licenses for Use of Excess Property. FEC Commanders/Commanding Officers may issue licenses for use of property that has been reported to GSA as excess property in accordance with [reference \(e\)](#), provided, the prior approval of GSA is obtained. These licenses cannot contain a term in excess of one year; must be revocable at will; and must be of such a nature that it does not interfere with or delay the disposal of the property. The license must conform to GSA regulations in all respects.

c. Administrative Costs. Administrative costs for licenses can be funded by the prospective licensee under [10 U.S.C. § 2695](#).

19. SERVICES AND UTILITIES CHARGES. Licensees will be required to reimburse the Department of the Navy for the cost of utilities and services furnished, according to applicable statutes and regulations, including [reference \(k\)](#).

20. ADMINISTRATION OF LICENSES. FEC Commanders/Commanding Officers should administer all licenses for use of property issued by them according to [Paragraph 9](#). They are also responsible for review of all licenses issued under their delegated authority, to insure compliance with the policies and procedures set forth in this Chapter. Periodic compliance inspections will be made as required to ensure that licensees are complying with the terms and conditions of the licenses. These inspections 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, FECs are encouraged to establish a working relationship with Commanders/Commanding Officers of activities concerned by means of which the services of the Public Works Officer and staff may be used to supplement the inspection responsibilities of the FECs.

21. REVOCATION OF LICENSES. If a determination is made by the FEC or the Commander/Commanding Officer in charge of an activity that a licensee has failed to fulfill or comply with the obligations under a license, or if revocation is necessary for any other purpose, the official who granted the license must promptly revoke it pursuant to its revocation provision. Furnish the FEC and Commander, Naval Facilities Engineering Command a copy of the written notice of revocation with explanatory details.

22. DISTRIBUTION

a. Distribute licenses, amendments, and notices of termination as follows:

- | | |
|---|--|
| (1) Signed document | Licensee |
| (2) Signed document | FEC |
| (3) Conformed copy | Activity |
| (4) Conformed copy
(Only when payment is involved other than for utilities and services) | Locally identified POC for utility billing/collection |
| (5) Conformed copy

(only for banking Activities) | Assistant Secretary of the

(Financial Management) |
- Navy

SECTION III - USE AGREEMENTS

23. WHEN TO USE A USE AGREEMENT. After meeting the policy requirements of [Paragraph 6.](#) above, 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 property, and the expenditure by the 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, remember 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 as long as the tenant requires it.

24. USE OF TERMS. As used in this Chapter 20, "Use Agreement" will always refer to 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 agreements with a component of DOD.

25. DELEGATION OF AUTHORITY TO FEC COMMANDERS/COMMANDING OFFICERS TO GRANT USE AGREEMENTS AND HTREAS. Subject to the limitations of this Chapter, FEC Commanders/Commanding Officers are authorized to grant, amend, administer, and terminate Use Agreements and HTREAS for the use of Navy-controlled real property. The authority delegated herein may be redelegated.

26. APPROVALS. Before granting a Use Agreement or a HTREA, the FEC will obtain the written approval of the Commander/Commanding Officer of the activity concerned, the Regional Commander and Commander Navy Installations Command (CNIC) for Navy properties, Commandant of the Marine Corps (CMC) for Marine Corps properties, and COMNAVFACENGCOM for all new Use Agreements and HTREAs. Renewal of existing Use Agreements or HTREAs do not require COMNAVFACENGCOM approval.

27. ASSESSMENT OF ENVIRONMENTAL IMPACT. The FEC will obtain from the Commander/Commanding Officer of the affected activity an assessment of the environmental impact of the proposed agreement, prepared in accordance with [reference \(i\)](#).

28. TERMS AND CONDITIONS

a. Each Use Agreement and HTREA must be in writing and as a minimum should provide that:

(1) The grantee will reimburse the Department of the Navy in accordance with applicable statutes and regulations for the cost of utilities and services furnished.

(2) The grantee will not make any structural alterations, additions, or betterments, except according to instructions of the Real Estate Contracting Office as delegated, acting by direction of the FEC Commanding Officer.

(3) If required by DON, the grantee will remove improvements and restore the Department of the Navy property when the use terminates. This condition may be waived if requisite clearances for accepting the improvements are obtained before granting the agreement.

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

c. Use by another component of the DOD will be authorized through a HTREA and shall prescribe maintenance responsibilities according to [reference \(c\)](#). The FECs will prepare all required Use Agreements and HTREAs patterned from the formats furnished in Appendices C and D hereof. Maintenance responsibilities for HTREAs are set out in [reference \(c\)](#) 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. Notwithstanding [DODD 4165.6](#) of October 13, 2004, Navy may not charge another Federal agency rent for the use of Navy property pursuant to the interdepartmental waiver doctrine as stated in reference (1). This does not prohibit Navy from charging another Federal agency for the costs and damages resulting from its use or for supplied utilities.

30. ADMINISTRATION OF USE AGREEMENTS AND HOST-TENANT REAL ESTATE AGREEMENTS. The FECs are responsible for administering all Use Agreements and HTREAs. The FECs should seek the cooperation of the Commander/Commanding Officer of the host activity in this regard. As such, activity Commanders/Commanding Officers will be responsible for entering into and administering the Inter-Service Support Agreement (ISSA) that normally accompanies these agreements.

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 ISSA entered into by the activity Commanders/Commanding Officers involved. FECs have no part in this transaction.

32. REVOCATION OF USE AGREEMENTS AND HTREAS. Use agreements and HTREAS should be terminated by the FEC only with the consent of the tenant activity. Revocation for any other reason will only be done after COMNAVFACENGCOM approval has been obtained. If a tenant fails to comply with its obligations under the agreement, every effort should be made locally to obtain compliance. If this is unsuccessful, refer the matter to COMNAVFACENGCOM with appropriate recommendations.

33. DISTRIBUTION

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

- | | |
|------------------------|--|
| (1) Original | FEC |
| (2) Duplicate Original | Tenant activity |
| (3) Conformed copy | Commander/Commanding
Officer of host activity |
| (4) Conformed copy | COMNAVFACENGCOM |

APPENDIX A

LIC-

LICENSE FOR NONFEDERAL USE OF REAL PROPERTY NAVFAC 11011/29 (2-11) (Supersedes NAVDOCKS 2260) 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 SPECIFIED UNDER THE TERMS AND CONDITIONS SET FORTH BELOW AND THE ATTACHED GENERAL PROVISIONS. BY ITS EXECUTION, THE LICENSEE AGREES TO COMPLY WITH ALL THOSE TERMS, CONDITIONS, AND GENERAL PROVISIONS.	LICENSE NUMBER LIC-
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1. PROPERTY LOCATION	2. DATES COVERED (Inclusive) <table style="width:100%; border: none;"> <tr> <td style="width:50%; border: none;">From</td> <td style="width:50%; border: none;">To</td> </tr> </table>	From	To
From	To		

3. DESCRIPTION OF PREMISES (Include room & building numbers where appropriate)

4. PURPOSE OF LICENSE

5. LICENSOR THE UNITED STATES OF AMERICA By the SECRETARY OF THE NAVY	5a. NAVY/USMC LOCAL REPRESENTATIVE (Name, Address, Email)
--	--

6. LICENSEE (Name Address, Email)	6a. LICENSEE LOCAL REPRESENTATIVE (Name ,Address, Email)
--	---

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

a. AMOUNT (EACH PAYMENT) NONE	b. FREQUENCY PAYMENTS DUE	c. FIRST DUE DATE	d. TO (Title & address of local representative of the Government)
---	---------------------------	-------------------	---

8. DEPOSIT FOR UTILITIES AND SERVICES (Payable in Advance)
 (If no cash payment is required, enter "None" under item 8a "Amount")

a. AMOUNT (EACH PAYMENT) NONE	b. FREQUENCY PAYMENTS DUE	c. FIRST DUE DATE	d. TO (Mailing Address)
---	---------------------------	-------------------	-------------------------

9. INSURANCE REQUIRED FROM LICENSEE
 (If any or all insurance requirements have been waived, enter "None" as appropriate)

TYPE	AMOUNT	TYPE	AMOUNT
a. Commercial General Liability (Occurrence Policy Only) Bodily Injury (single limit) ...Property Damage Fire/Legal Liability Deductible	Per Occurrence	b. Worker's Compensation	Per State Law

10. GENERAL PROVISIONS (See Attached) RE: Item r, Physical Condition Report and Environmental Condition Report. The Licensee acknowledges receipt of the reports, has read them, and agrees that they represent the physical and environmental conditions, respectively, of the Premises on the beginning date of this License.

II. EXECUTION OF LICENSE

FOR	BY		DATE
	NAME AND TITLE, EMAIL (Typed)	SIGNATURE	
FOR THE SECRETARY OF THE NAVY	Real Estate Contracting Officer		
LICENSEE (I represented that I am authorized to bind Licensee)			

10. GENERAL PROVISIONS
LIC-

- a. The Licensor grants to the Licensee the right to use the premises or facilities described in item 3 ("Premises"), together with the necessary rights of ingress and egress authorized by the Installation Commander. The Licensee and its invitees and contractors agree to absorb all costs, including time and expense, associated with gaining access to the Installation under the RAPIDGATE or similar program. Any parking that accompanies the use of, and any routes of access to and from, the Premises are subject to change at the sole discretion of the Installation Commander.
- b. This License shall be effective for the period stated in item 2 and is revocable at any time without notice at the option and discretion of the Licensor or its authorized representative.
- c. The use of the Premises shall be limited to the purposes specified in item 4, and no other.
- d. This License is neither assignable nor transferable by the Licensee, and grants no interest in the real property of the Licensor.
- e. If utilities and services are furnished to the Premises, the Licensee agrees to reimburse the Licensor for the cost 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 the Premises in good order. At the discretion of the Licensor this obligation shall include, but not be limited to, contribution toward the expense of long-term maintenance, the necessity for which accrued 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 item 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 item of long-term maintenance did not accrue in its entirety during the Licensee's use. Upon a determination by the Licensor that the necessity exists for an expenditure of funds for maintenance, protection, preservation or repair, the Licensee shall pay to the Licensor its proportionate share, within 30 days of receipt of a statement.
- g. No additions to, or alterations of, the Premises shall be made without the prior consent of the Licensor. Upon revocation or surrender of this License, to the extent directed by the Licensor, the Licensee shall remove all alterations, additions, betterments and improvements made, or installed, and restore the Premises to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted.
- h. The Licensee, to the extent allowed by law, releases the Licensor and its employees from death or injury to persons caused by water, ice, snow, sleet, frost, steam, hail, wind, cold, dampness, electricity, rust, falling plaster or other materials, fire, explosion, sewer or sewage, gas, vapors, odors, aircraft noise, toxic or hazardous wastes, substances, or materials, the bursting or leaking of pipes or plumbing, or faulty wiring, or by any equipment or fixtures, or any act of God, or objects of any nature moved or propelled by water, ice, snow, sleet, steam, hail, or wind, at the Premises, unless caused by the willful act or gross negligence of the Licensor.**
- i. The Licensee, to the extent allowed by law, agrees to release and hold the Licensor and its employees harmless from, and to indemnify and defend them against, loss or damage to property caused by or arising from its use of the Premises, irrespective of the contributory fault of the Licensor.** In the event that any item or part of the Premises shall require repair, rebuilding or replacement (collectively, "repair") resulting from loss or damage, the risk of which is assumed under this License, the Licensee shall promptly give notice to the Licensor and, to the extent of its liability as provided in this paragraph, shall either compensate the Licensor for any loss or damage within thirty (30) days of receipt of a statement, or repair the lost or damaged item or items of the Premises, as the Licensor may elect. If the cost of repair exceeds the liability of the Licensee for any loss or damage, the Licensee shall effect the repair if required so to do by the Licensor, and the excess of cost shall be reimbursed to the Licensee by the Licensor within thirty (30) days of receipt of a statement. In the event the Licensee shall have effected any repair that the Licensee is required to effect, the Licensor shall direct payment to the Licensee of so much of the proceeds of any insurance carried by the Licensee and made available to the Licensor on account of loss of or damage to any item or part of the Premises that may be necessary to enable the Licensee to effect the repair. In the event the Licensee shall not have been required to effect the repair, and the insurance proceeds allocable to the loss or damage that has created the need for the repair have been paid to the Licensee, the Licensee shall promptly refund to the Licensor the amount of the proceeds.
- k. The Licensee, to the extent allowed by law, shall indemnify and save harmless the Licensor, its officers, agents, servants and employees from, and defend it and them against, all liability under the Federal Tort Claims Act (28 U.S.C. §§ 2671 and 2680) or otherwise, for death or injury to all persons, or loss or damage to the property of all persons resulting from its use of the Premises, unless caused, or contributed to, by the willful misconduct or gross negligence of the Licensor.**
- l. The Licensee shall procure and keep continuously in effect during the term of this License the insurance specified in Item 9 on terms and conditions satisfactory to the Licensor, and naming the Licensor as additional insured and loss payee. Payments of losses shall be made to "Treasurer of the United States". Each policy of insurance required in Item 9 covering bodily injuries and third party property damage shall contain an endorsement waiving the insurer's right of subrogation against the United States of America. No cancellation, reduction in amount, or material change in coverage shall be effective until at least sixty (60) days after receipt by the Licensor of written notice. Notwithstanding the foregoing, any cancellation of insurance coverage based on nonpayment of the premium shall be effective only upon thirty (30) days' written notice to the Licensor. Each insurer shall have a rating of at least B+ for financial strength in the latest edition of *A.M. Best's Rating Guide* (http://www3.ambest.com/ratings/advanced.asp?template=&bl=0&ext_user=&ext_misc=&altsrc=9&portal=). The Licensee will not be allowed entry on the Premises until it first delivers a certificate or certificates of required insurance to the Licensor.
- m. No member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this License or to any benefit that may arise from it; but this provision shall not be construed to extend to this License if made with a corporation for its general benefit.
- n. The Licensee warrants that it has not employed any person to solicit or obtain this License upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Licensor the right to annul this License or in its discretion to recover from the Licensee the amount of that commission, percentage, brokerage or contingent fee in addition to the consideration for this license. This warranty shall not apply to commissions payable by the Licensee upon contracts or sales obtained or made through *bona fide* established commercial or selling agencies maintained by the Licensee for the purpose of acquiring business.
- o. 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. Non-discrimination 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 in conspicuous places available for employees and applicants for employment, notices to be provided by the Licensor setting forth the provisions of the nondiscrimination clause. The Licensee further agrees to insert the foregoing provision in all subcontracts for work under this License, except subcontracts for standard commercial supplies or raw materials.
- p. All activities authorized under this License shall be subject to rules and regulations regarding supervision or otherwise, that may, from time to time, be prescribed by the local representative of the Licensor.
- q. In the event of damage, including damage by contamination, to any Government property by the Licensee, its officers, agents, servants, employees, or invitees, the Licensee, at the election of the Licensor, shall promptly repair, replace, or make monetary compensation for the repair or replacement of that property to the satisfaction of the Licensor. That obligation includes any damage discovered from the physical condition and environmental condition inspections required at condition r, notwithstanding the expiration or earlier termination or revocation of this License. Prior to the execution of this License, the Licensee shall submit to the Licensor evidence of compliance with all local, state, and Federal environmental laws and regulations. Storage, treatment, or disposal of toxic or hazardous materials on the Premises is prohibited except as authorized by the Licensor in accordance with 10 U.S.C. § 2692. In the event the Licensor approves the storage, treatment, or disposal of toxic or hazardous materials, the Licensee shall obtain insurance or post a bond in an amount sufficient to cover possible cleanup costs. The amount and required provisions shall be determined by the Commander/Commanding Officer.
- r. Prior to the term beginning, the following reports will be prepared by the Licensor:

A physical condition report (PCR) signed by representatives of the Licensor and the Licensee. The PCR sets forth the agreed physical appearance and condition of the Premises on the term beginning date as determined from a joint inspection. A videotape of the Premise may be made at the time of inspection for use in the preparation of the PCR. The videotape shall be preserved by the Licensor for the term of this License and for a period of one (1) year thereafter.

An Environmental Condition of Property (ECP) setting forth those environmental conditions and matters on and affecting the Premises on the term beginning date, as determined from the records and analyses reflected in it.

At the expiration or earlier termination or revocation of this License, the following reports will be prepared by the Licensor and attached to this License within a reasonable number of days after the Licensee vacates the Premises:

An update of the PCR, signed by representatives of the Licensor and the Licensee shall be completed on the termination of this License. The update will set forth the agreed physical appearance and condition of the Premises on the ending date of this License as determined from a joint inspection.

An update of the ECP, signed by representatives of the Licensor and the Licensee shall be completed on the termination of this License. The update will set forth those environmental conditions on and affecting the Premises on the ending date of this License as determined from the records and analyses reflected in the ECP.

APPENDIX B

**License for Use of Real Property by Other Federal Agencies (NAVFAC
11011/30)**

LICENSE FOR USE OF REAL PROPERTY BY OTHER FEDERAL AGENCIES

NAVFAC 11011/30 (6-75) (Supersedes NavDocks 2261)

LICENSE NUMBER

LIC-

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. NAVAL ACTIVITY (Property Location)

2. DATES COVERED (Inclusive)

FROM TO

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

4. PURPOSE OF LICENSE (Include specific use, and specific times used if to be used on recurring part-time basis)

5. LICENSOR

DEPARTMENT OF THE NAVY

**5a. LOCAL REPRESENTATIVE-DEPARTMENT OF NAVY
OFFICIAL** (Title & Address)

6. LICENSEE (Name & address, give full agency designation)

6a. LOCAL REPRESENTATIVE OF LICENSEE (Name and Address)

7. GENERAL PROVISIONS (see attached)

8. EXECUTION OF LICENSE

BY			
FOR	NAME AND TITLE (Typed)	SIGNATURE	DATE
DEPARTMENT OF THE NAVY	Real Estate Contracting Officer		
LICENSEE			

**7. GENERAL PROVISIONS
TO U.S. GOVERNMENT LICENSE LIC- /**

- a. The Licensor grants to the Licensee permission to use the premises or facilities (the "Premises") 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 of the Premises shall be limited to that specified in item 4.
- d. This License shall be neither assignable nor transferable by the Licensee.
- e. If utilities and services are furnished to the Licensee, the cost will be reimbursed to the Licensor pursuant to applicable statutes and regulations governing reimbursement.
- f. The Licensee shall protect, maintain, and keep the Premises in good order and repair. This obligation includes responsibility for all costs incurred for any maintenance and repair (including long-term maintenance) that the Licensee shall consider necessary or desirable in connection with its occupancy.
- g. Any item of long-term maintenance, or any additions to, or alterations of, the Premises that 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 to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted.
- h. All activities authorized by this License shall be subject to rules and regulations for supervision or otherwise, that may, from time to time, be prescribed by the local representative of the Licensor designated in item 5a.
- i. In the event of damage, including damage by contamination, to any Government property by the Licensee, its officers, agents, servants, employees, or invitees, the Licensee, at the election of the Government, shall promptly repair, replace, or make monetary compensation for the repair or replacement of that property to the satisfaction of the Government. The Licensee, at its own expense, shall comply with all local, state, and Federal environmental laws and regulations. In the event that the Licensee will process, dispose, generate, or handle any contaminants, the Licensee shall obtain insurance or post a bond in an amount sufficient to cover possible cleanup costs. The amount shall be determined by the Commander/Commanding Officer, and the insurer must be reasonably satisfactory to the Commander/Commanding Officer.

PROPERTY DESCRIPTION

APPENDIX C

Use Agreement

THIS USE AGREEMENT between the DEPARTMENT OF THE NAVY ("NAVY"), acting by and through the Commander/Commanding Officer Naval Facilities Engineering Command _____, and the _____, ("TENANT"), authorizes use by TENANT of Facilities at the _____ in connection with _____.

1. TENANT shall have exclusive use of the area containing _____ acres, more or less, as delineated on attached Exhibit A and referred to hereinafter as the PREMISES.
2. TENANT shall have the right to use in common with NAVY, and with such other parties as NAVY may authorize, 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 maintain the PREMISES in good condition at all times and shall promptly make all repairs thereto that may be necessary for the preservation of the PREMISES and all improvements and appurtenances thereto.
6. TENANT shall not make any structural alteration, addition or betterments of NAVY owned property without coordination and written consent of _____.
7. Any alterations, 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.
8. 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.)

9. TENANT shall reimburse NAVY for the cost of utilities and services, if any, furnished in accordance with applicable statutes, regulations, and instructions.
10. NAVY reserves the right to use the PREMISES, provided such use will not interfere with the use hereby granted.
11. All activities and operations at or within the PREMISES shall be governed by and conducted in compliance with any and all applicable laws and regulations, including without limitation, applicable security and environmental protection laws and regulations.
12. Storage, treatment, or disposal of toxic or hazardous materials on the PREMISES is prohibited except as authorized by the Government in accordance with 10 U.S.C. § 2692. Any hazardous materials that the Government authorizes the storage, treatment, or disposal of in connection with the use of the PREMISES shall be identified on a Hazardous Materials List and made a part of this Use Agreement. Any such approved storage, treatment, or disposal of toxic or hazardous material by TENANT on the PREMISES shall be strictly limited to that material required or generated in connection with the authorized and compatible use of the PREMISES and shall be conducted in a manner consistent with the best interest of national defense as determined by the Secretary of the Navy and applicable law and regulations. As and to the extent caused or attributable to the TENANT, TENANT shall provide for the continued financial and environmental responsibility or liability with regard to any and all direct or indirect consequences of the storage, treatment, or disposal of toxic or hazardous material within the PREMISES.
13. TENANT shall coordinate legal compliance efforts with NAVY in any and all instances where they may be reasonably exposed to liability in connection with actions or omissions of each other within the PREMISES. In particular, National Environmental Policy Act decision documents shall be prepared in accordance, or be fully consistent, with applicable laws and regulations, and requirements applicable to NAVY standards.
14. To the maximum extent allowable by Federal law and regulations, TENANT shall be responsible for the cost of any environmental removal or remedial action, as and to the extent caused by TENANT that may be necessary or required in connection with actions or omissions attributable to the use and occupation of the PREMISES by TENANT.

15. 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 the 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

Real Estate Contracting Officer

(Date)

Concurrences:

By _____
(Commanding Officer, HOST Unit)

(Date)

FOR THE DEPARTMENT OF THE NAVY

By _____
(Commanding Officer, TENANT Unit)

(Date)

APPENDIX D

Sample Format of Host-Tenant Real Estate Agreement

All correspondence in connection with this agreement should include reference to

HOST-TENANT REAL ESTATE AGREEMENT

(Installation)

THIS AGREEMENT between the Department of the Navy ("HOST")
and the Department of the _____
("TENANT")

allows the use by the TENANT of Facilities at the

_____ in connection with _____.

under the following terms and conditions:

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

2. TENANT shall have the right to use in common with HOST, and with other parties that 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 depicted on Exhibit "A."

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

4. Property accounting shall be effected in accordance with

procedures prescribed by Navy Comptroller Manual (reference DODINST 4165.14 of 31 March 2006 and NAVFAC P-78 of 3 March 2006).

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 carried out in accordance with DODINST 4000.19 of 9 August 1995.

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 from HOST. Upon revocation, expiration, or surrender of this agreement, and to the extent directed by HOST, TENANT shall remove all alternations, 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 from HOST. Permanent structural changes, additions, or installations made and financed by TENANT during

occupancy shall remain in place and be left in condition comparable to 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.)

8. TENANT shall be held responsible for all applicable Federal, state, and local environmental laws, regulations, etc. TENANT agrees to remediate, at its sole cost and expense, all hazardous substance contamination that is found to have occurred as a result of the use authorized herein.

9. TENANT shall be responsible for obtaining, at its sole cost and expense, any environmental permits required for its operations, independent of any existing permits. Copies of all required permits shall be provided to HOST for inspection upon request. Any environmental permit required herein shall list TENANT as operator.

10. TENANT shall be solely responsible for any costs,

expenses, liabilities, fines, or penalties resulting from discharges, emissions, spills, storage, or disposal arising from TENANT's occupancy, use of operations, or any other actions by TENANT giving rise to HOST liability, civil or criminal, or responsibility under federal, state or local environmental laws or regulations. This provision shall survive the expiration or termination of this Host-Tenant Real Estate Agreement and TENANT's obligations hereunder shall apply whenever HOST incurs costs or liabilities for TENANT's actions.

11. TENANT will manage, control and dispose of its hazardous waste and hazardous materials in accordance with Federal, state, and local laws. In addition, TENANT shall implement the environmental requirements of applicable facility plans including but not limited to Spill Plans, Emergency Response Plans, and Hazardous Waste Management Plans.

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

Real Estate Contracting Officer

(Date)

Concurrences:

By _____
(Commanding Officer, HOST Unit)

(Date)

FOR THE DEPARTMENT OF THE

By _____
(Commanding Officer, TENANT Unit)

(Date)