

NAVY FLYING CLUB FLIGHT AND GROUND INSTRUCTORS CONTRACT

CONTRACT NO. _____

This contract is made and entered into by and between the Flying Club Nonappropriated Fund Instrumentality (hereinafter called NAFI) located at _____ and _____ (hereinafter called Contractor). The Contract is for the furnishing of

SELECT OPTION A OR B BELOW!

a. flight and ground instructor services as more specifically described in Attachments A & B hereto,

OR

b. ground instructor services as more specifically described in Attachment B hereto,

NOTE: IF "B" IS SELECTED, REMOVE ATTACHMENT A HERETO

and is effective from the date of signature by both parties for a period of one year subject to the provisions set forth hereunder. The parties agree to the following:

1. GENERAL. The Contractor agrees to perform services in accordance with the attached Schedule of Services and Compensation. The Contractor shall be responsible for performing all the services set forth in

SELECT OPTION A OR B BELOW!

a. Attachment A & B hereto.

OR

b. Attachment B hereto.

2. PAYMENT. In consideration for the services rendered, the NAFI agrees to pay the Contractor the hourly fee(s) on a monthly basis as stipulated in

SELECT OPTION A OR B BELOW!

a. Attachment A & B hereto,

OR

b. Attachment B hereto,

unless otherwise specified by modification to this Contract. An invoice or time statement shall be submitted by the Contractor to the NAFI (reference Clause No. 12 titled "Invoices.").

3. RELATIONSHIP. The Contractor is not an employee of the NAFI and is not covered by Workman's Compensation, group life, accident or health insurance, and other benefits associated with an employer-employee relationship. The Contractor is fully cognizant that this contract is a contract for services and that an employee-employer relationship does not exist between the Contractor and the NAFI.

4. INSURANCE. The Navy Flying Club Commercial Aircraft Insurance Program Liability protects the Contractor from liability for damage or destruction of flying club aircraft and property, and bodily injury, death, or damage to property of third persons (including passengers) in accordance with the terms and conditions of that policy which arise out of the performance of instructional or other duties performed under this contract, so long as such performance is in accordance with the provisions of this Contract and the regulations governing the flying club's operation, and so long as such liability does not result from gross negligence, fraud, dishonesty, or willful misconduct. Limits of the Navy Flying Club Commercial Aircraft Insurance policy are \$25,000,000.00 per accident or aggregate for policy year.

5. LICENSES, TAXES, PERMITS AND FEES. It is the Contractor's responsibility to obtain, at its own expense, all licenses and permits, and to pay such taxes and fees as may be required of the Contractor by federal, state, and local governments in the execution

of the terms of this Contract. The Contractor shall supply to the Contracting Officer and the Club Manager all required licenses and permits prior to the execution of this contract.

6. CHANGES. The Contracting Officer, at any time, by written order, may make changes in or additions to the services to be performed by this contract, issue additional instructions, or require modified or additional work or services within the general scope of the Contract. If any such changes are made under this Contract, an equitable adjustment will be made in the Contract price or term of performance, or both, and the Contract will be modified in writing accordingly. Any claim by the Contractor for adjustment under this paragraph must be asserted within thirty calendar days from the date of receipt by the Contractor of the notification of changes, provided however, that the Contracting Officer, if he/she decides that the facts justify such action, may receive and act on any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment will be a dispute concerning a question of fact within the meaning of the clause of this Contract titled "Disputes." However, nothing in this clause excuses the Contractor from proceeding with the Contract as changed, and it is limited to proceeding with its appeal pursuant to the provision titled "Disputes."

7. INSPECTION AND ACCEPTANCE. The NAFI is responsible for performing inspection and acceptance of services rendered, including inspection of any records maintained by the Contractor.

8. SCHEDULING AND ASSIGNMENT OF STUDENTS. The flying club manager determines the eligibility of and schedules members of the NAFI for instruction. All students are assigned by the NAFI manager through the Chief Flight Instructor with the concurrence of the Flight or Ground Instructor.

9. PROFICIENCY. The Contractor agrees to maintain proficiency under appropriate Federal Aviation regulations and Navy regulations, and to comply with all applicable laws and regulations pertaining to flight safety, aircraft utilization, and appropriate federal and state directives pertaining to flying. Flying club aircraft may be used at the rental rate to maintain proficiency if the instructor is eligible for flying club membership. The instructor may be given the required annual standardization check flight by the club chief flight instructor in flying club aircraft.

10. OPTION TO EXTEND TERM OF CONTRACT. This Contract may be renewed for a like term by mutual agreement in writing by the parties hereto, subject to approval in the same manner as this instrument. However, in no event will such renewal exceed a period of 5 years (from the date of this original contract).

11. CONTRACT CLAUSES. The attached Contract clauses (Attachment C) are hereby incorporated into this basic contract. In the event of conflict between the provisions of the basic contract and the provisions of any other attachment hereto, the provisions of the basic contract control.

12. EFFECTIVE DATE OF CONTRACT. This Contract becomes effective when signed by the Contracting Officer and Contractor.

Print Name of
Contracting Officer

Print Name of Contractor

Signature -
Contracting officer

Signature - Contractor

Social Security Number

Date

Date

Address & Phone Number

Address & Phone Number

ATTACHMENT A

FLIGHT INSTRUCTOR'S SCHEDULE OF SERVICES AND COMPENSATION

1. The Contractor will furnish flight instruction in aircraft operated by the NAFI and ground instruction to students enrolled in programs provided by the NAFI. Such instruction is the result of mutual agreement between the students and the Contractor concerning flight scheduling in accordance with availability of aircraft furnished by the NAFI.
2. The flight instructor works under the general supervision of the designated Chief Flight Instructor, who establishes minimum standards of performance in accordance with applicable Navy, FAA, NAFI directives, and rules and regulations.
3. The Contractor's responsibilities include, but are not limited to:
 - a. Complete supervision of all assigned students.
 - b. Maintenance and administration of training record and folders on all assigned students.
 - c. Compliance with all Navy, FAA, and NAFI directives, rules, and regulations governing ground and flight operations, to include attendance at all standardization, safety, and flight instructors meetings.
4. The NAFI will furnish the Contractor, at prevailing rates, suitable aircraft to meet currency requirements, and for proficiency and standardization check flights required by applicable directives.
5. In consideration of agreements set forth in this Contract, the Contractor will receive compensation for flight instruction at the following rates:
 - a. Primary Flight Instruction \$_____ per hour.
 - b. Commercial Flight Instruction \$_____ per hour.
 - c. Instrument Flight Instruction \$_____ per hour.
 - d. Instructor's Flight Instruction \$_____ per hour.
 - e. Other (specify) \$_____ per hour.

ATTACHMENT B

GROUND INSTRUCTOR'S SCHEDULE OF SERVICES AND COMPENSATION

1. The Contractor will furnish ground instruction in the flight training programs operated by the NAFI.
2. The Ground Instructor works under the general supervision of the designated Chief Flight Instructor, who establishes minimum standards of performance in accordance with applicable Navy, FAA, and NAFI directives, rules, and regulations.
3. The Contractor's responsibilities include, but are not limited to:
 - a. Completing supervision of all assigned students.
 - b. Maintaining and administering student ground training record and folders.
 - c. Complying with all Navy, FAA and NAFI directives, rules, and regulation governing ground and flight operations, to include attendance at all standardization, safety, and flight instructors meetings.
4. In consideration of agreements set forth in this Contract, the contractor will receive compensation for ground instruction at the following rates:
 - a. Primary Ground Instruction \$_____per hour.
 - b. Commercial Ground Instruction \$_____per hour.
 - c. Instrument Ground Instruction \$_____per hour.
 - d. Instructor's Ground Instruction \$_____per hour.
 - e. Other (specify) \$_____per hour.

NOTE: Rates may be established by the NAFI on a class or course basis as desired.

ATTACHMENT C

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NONAPPROPRIATED FUND CONTRACT CLAUSES

1. DEFINITIONS. As used throughout this contract, the following terms and abbreviations have the meaning set forth below:

a. The term "Contract" means this agreement or order and any modifications hereto.

b. The abbreviation "NAFI" means Nonappropriated Fund Instrumentality of the United States Government.

c. The term "Contracting Officer" means the person executing or responsible for administering this contract on behalf of the NAFI which is a party hereto, or his successor or successors.

d. The term "Contractor" means the party responsible for providing supplies/equipment and/or services at a certain price or rate to the NAFI under this contract.

e. The term "Contracting Officer's Representative" (COR) means a person appointed by the Contracting Officer to monitor performance and act as a liaison between the Contractor and the Contracting Officer.

2. ADVERTISEMENTS. The Contractor agrees that none of its, nor its agent's, advertisement to include publications, merchandise, promotions, coupons, sweepstakes, contests, sales brochures, etc., shall state, infer or imply that the Contractor's products or services are approved, promoted or endorsed by the NAFI. Any advertisement, including cents off coupons, which refers to a NAFI will contain a statement that the advertisement is neither paid for nor sponsored in whole or in part by that particular activity.

3. ASSIGNMENT. A Contractor may not assign their rights or delegate their obligations under this contract without prior written consent of the Contracting Officer.

4. COMMERCIAL WARRANTY. The Contractor agrees that the supplies/equipment or services furnished under this contract shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such supplies/equipment or services and that the rights and remedies provided herein are in

addition to and do not limit any rights afforded to the NAFI by any other clause of this contract. The printed terms and conditions of such warranty will be provided to the NAFI with the delivery of any supplies/equipment or services covered.

5. DISCOUNTS FOR PROMPT PAYMENT. In connection with any prompt payment discount offered, time will be computed from the date of the Contractor's invoice. Payment is deemed to have been made as of the date on the payment check or date on which electronic funds transfer is made.

6. DISPUTES

a. Except as otherwise provided in this contract, any dispute or claim concerning this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall state his/her decision in writing and mail or otherwise furnish a copy of it to the Contractor. Within 90 days from date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the immediate superior in command (ISIC) of the command one level above the Contracting Officer's command. The decision of this authority shall be final and conclusive. If no such appeal is filed, the decision of the Contracting Officer shall be final and conclusive. The Contractor shall be afforded an opportunity to be heard and to offer evidence in support of any appeal under this clause. Pending final decision on such a dispute, the Contractor shall proceed diligently with the performance of the contract and according to the decision of the Contracting Officer, unless directed to do otherwise by the Contracting Officer.

7. EXAMINATION OF RECORDS

a. The clause is applicable if the amount of this contract exceeds \$10,000 and the contract was entered into by mean of negotiation. The Contractor agrees that the Contracting Officer or his/her duly authorized representative shall have the right to examine and audit the books and records of the Contractor directly pertaining to the contract during the period of the contract and up to three years after contract expiration date and final payment.

b. The Contractor agrees to include the clause in "a" above in all subcontracts thereunder which exceed \$10,000.

8. GRATUITIES

a. The NAFI may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found after notice and hearing, by the Commanding Officer, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government or the NAFI with a view toward securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract.

b. In the event this contract is terminated as provided in paragraph "a" hereof, the NAFI shall be entitled (1) to pursue the same remedies against the Contractor as it would pursue in the event of a breach of contract by the Contractor, and (2) as a penalty in addition to any other damages to which it may be entitled by law to exemplary damages in an amount (as determined by the Commanding Officer), which shall not be less than three nor more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

c. The rights and remedies of the NAFI provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

9. HOLD AND SAVE HARMLESS. The Contractor shall indemnify, save harmless and defend the NAFI, U.S. Navy, Federal Government, its outlets and customers from any liability, claimed or established, for violation or infringement of any patent, copyright or trademark right asserted by any third party with respect to goods hereby ordered or any part thereof. Contractor further agrees to hold NAFI harmless from all claims or judgments for damages resulting from the use of products listed in this contract, except for such claims or damages caused by or resulting from negligence of the NAFI customers, employees, agents or representatives. Also, the Contractor shall at all times hold and save harmless the NAFI, U.S. Navy, Federal Government, its agents, representatives, and employees from any and all suits and expenses which arise out of acts or omissions of the Contractor, its agents, representatives, or employees.

10. INSPECTION. Unless otherwise provided herein, inspection shall be made after receipt of the supplies/equipment by the ordering activity, or after completion of services by the Contractor. Inspection and acceptance shall not be conclusive, with respect to latent defects or fraud, or with respect to the NAFI's rights under the Proof of Shipment provisions contained herein. In case any supplies/equipment or services are defective in material or workmanship, or are otherwise not in conformity with the requirements of this contract, the NAFI shall have the right to reject such supplies or services, or to require replacement or correction. Rejected supplies/equipment shall be removed by and at the expense of the Contractor promptly after notice. If required by the NAFI, the Contractor, after notice of defect or non-conformance, shall, in a timely manner, correct or replace the defective or non-conforming supplies/equipment or services, or any part thereof. When such correction or replacement requires transportation of the supplies/equipment or part thereof, all shipping costs to and from the Contractor's plant or place of business shall be borne by the Contractor.

11. SUBCONTRACTING. The Contractor will not subcontract any portion of this Contract without obtaining the Contracting Officer's written consent. If a subcontractor is permitted to execute any portion of this Contract, the Contractor will continue to be held responsible for all provisions of the Contract in total.

12. INVOICES. An invoice is a written request for payment under the contract for supplies/equipment delivered or for services rendered. In order to be proper, an invoice should include (and in order to support the payment of interest penalties) must include the following:

- a. Invoice date;
- b. Name of Contractor;
- c. Contract number (include order number, if any) contract description of supplies or services, quantity, contract unit of measure and unit price and extended total;
- d. Shipment number and date of shipment;
- e. Name and address to which payment is to be sent (name must be the same as that in the contract or on a proper notice of assignment);

f. Name (where practicable), title, telephone number and mailing address of person to be notified in event of a defective invoice; and

g. Any other information or documentation required by other provisions of the contract (such as evidence of shipment)

Invoices shall be prepared and submitted in duplicate (one copy shall be marked "Original") unless otherwise specified.

13. LAW GOVERNING CONTRACTS. In any dispute arising out of this contract, the decision of which requires consideration of law questions, the rights and obligations of the parties shall be interpreted and determined according to the substantive and procedural laws of the United States of America.

14. LEGAL STATUS. The NAFI is an integral part of the Department of Defense and is an instrumentality of the United States Government. Therefore, NAFI contracts are United States Government contracts, however, they do not obligate appropriated funds of the United States. NO APPROPRIATED FUNDS OF THE UNITED STATES SHALL BECOME DUE OR BE PAID A CONTRACTOR BY REASON OF THIS CONTRACT.

15. MODIFICATIONS. No agreement or understanding to modify this contract will be binding upon the NAFI unless it is made in writing and signed by a Contracting Officer from the office that issued the contract or its successor.

16. ORDER OF PRECEDENCE. In the event of an inconsistency between provisions of this solicitation/award, the inconsistency shall be resolved by giving precedence in the following order: (1) Supplies/Equipment or Services and Prices/Costs; (2) Description/Specifications/Work Statement; (3) Special Contract Requirements; (4) Contract Clauses; (5) other provisions of the solicitation/award.

17. PAYMENTS. Payment of prices stated in this contract will be made according to the Prompt Payment Act, as amended. Unless otherwise specified, payment will be made on partial deliveries accepted by the NAFI when the amount due on such deliveries so warrants. Payment is deemed to have been made as of the date on the payment check or date on which electronic funds transfer is made.

18. PROOF OF SHIPMENT. (Applicable to shipments outside the United States through the Defense Transportation System {DTS} and Parcel Post shipments to overseas destinations).

Except as otherwise provided in this contract, payment will be made for items not yet received upon receipt of an invoice accompanied by proof of delivery to a postal system or common carrier if delivery is FOB point of origin. For deliveries FOB destination named port of debarkation, the invoice must be accompanied by a signed receipt by a government representative at the named port.

19. TAXES. The prices herein reflect full reduction for taxes which are nonapplicable. In addition to the exemption from Federal excise taxes by virtue of exportation, all tangible personal property sold to NAFIs for resale are exempt from sales and use taxes. All sales other than for resale depend on state law or federal constitutional immunity for exemption from state sales and use taxes.

20. TERMINATION FOR CONVENIENCE. The Contracting Officer, by written notice, may terminate this contract, in whole or in part when it is in the best interest of the NAFI. If this contract is for supplies/equipment and is so terminated, the Contractor shall be compensated according to the Federal Acquisition Regulations (FAR) Subparts 49.1 and 49.2 in effect on the date of this contract award. To the extent that this contract is for services and is so terminated, the NAFI shall be liable only for payment according to the payment provisions of this contract for services rendered prior to the effective date of termination, providing there are no Contractor claims covering non-recurring costs for capital investment. If there are any such Contractor claims, they shall be settled according to FAR Subparts 49.1 and 49.2.

21. TERMINATION FOR DEFAULT. The Contracting Officer, by written notice, may terminate this contract in whole or in part for failure of the Contractor to perform any of the provisions hereof. In such event, the Contractor shall be liable for damages including the excess cost of reprocurring similar supplies/equipment or services; provided that, if (1) it is determined for any reason that the Contractor was not in default; or (2) Contractor's failure to perform is without the Contractor's or subcontractor's control, fault or negligence, the termination must be deemed to be a termination for

convenience. As used in this provision, the term "subcontractor" means subcontractor at any tier.

22. VARIATION IN QUANTITY. No variation in quantity of any item listed in this contract will be accepted unless authorized by the Contracting Officer.

23. PROTESTS. Offerors are encouraged to resolve any complaints or issues they may have with the Contracting Officer in an informal manner. However, where an Offeror is not satisfied with a procurement decision of the Contracting Officer, that Offeror may file a written protest with the Contracting Officer and the Contracting Officer will issue a final decision on the protest. Any interested party who is dissatisfied by the Contracting Officer's final decision on the protest may file a written appeal with the Commanding Officer. The procedures for filing protests may be found in Paragraph 223 of CNICINST 7043.1. A copy of Paragraph 223 will be provided to any Offeror by the Contracting Officer upon request.

CLAUSES INCORPORATED BY REFERENCE

The provisions of the following clauses set forth in the Federal Acquisition Regulation (FAR) are hereby incorporated into this order or contract by reference with the same force and effect as if they were given in full text. As used in the following clause, the term "Government" is deleted and the abbreviation "NAFI" is substituted in lieu thereof. The date of each clause shall be the current date set forth in the FAR at the time of issuance of an order or contract award. Clauses made inapplicable by the reference or by the type or order or contract (e.g. order or contracts for services instead of supplies/equipment) are self-deleting. *Upon request, the Contracting Officer will provide the full text.*

CLAUSE NO.	REFERENCE	CLAUSE TITLE
24	52.203-5	Covenant Against Contingent fees (Contracts over \$100,000)
25	52.222-20	Walsh-Healey Public Contracts Act (Supply Contracts in excess of \$10,000) (not with foreign Contractors)
26	52.222.26	Equal Opportunity (Supply and Service Contracts over \$10,000)
27	52.222.35	Affirmative Action for Special Disabled Veterans and Vietnam Era Veterans (Supplies and Services over \$10,000)

28	52.222-36	Affirmative Action for Handicapped Workers (Supplies and Service Contracts over \$25,000)
29	52.222-37	Employment Reports on Special Disabled Veterans and Vietnam Era Veterans (Supplies and Services Contracts over \$10,000)
30	52.225-13	Restrictions on Certain Foreign Purchases
31	52-232-11	Extras
32	52.243-1	Changes-Fixed Price
33	52.246-1	Contractor Inspector Requirements
34	52.246-16	Responsibility for Supplies
35	52.247-52	Clearance and Documentation Requirements-Shipment to DOD Air or Water Terminal Transshipment Points
36	52.222-3	Convict Labor (Contracts over \$2,500)

37	52.222-4	Contract Work Hours and Safety Standards Act- Overtime Compensation-General (Contracts over \$100,000)
38	52.222-41	Service Contract Act of 1965, as amended (Contracts over \$2,500)
39	52.243-1 (ALT1)	Changes - Fixed Price
40	52.246-4	Inspection of Services - Fixed Price