

Request for Quotations OSANF23Q0025

Concessionaire Contract

This Contract is hereby made and entered into on this (date is signed by the NAFI) day of _____, 2023, by and between the Osan Air Base, 51 FSS contracting office, on behalf of Osan Club, hereinafter called the nonappropriated fund instrumentality (NAFI), and _____ hereinafter called the Concessionaire. The NAFI is a Nonappropriated Fund Instrumentality of the Department of the Air Force, and as such, no appropriated funds of the United States of America shall become due or be paid to the Concessionaire by reason of this Contract. In consideration of the agreements set forth and the payments to be made as stipulated, it is mutually agreed between the parties hereto:

1. Concessionaire will provide of operating Black Cat Lounge to authorized patrons at Black Cat Lounge, Bldg. 853 for the period, beginning date is signed by the NAFI and ending five (5) years from the effective date

2. Concessionaire will pay the NAFI the greater of a:

a. Predetermined monthly fee in the amount of (\$ _____)

b. Payment of fees due the NAFI must be made:

Monthly, at the end of the sales period and submission of the Concessionaire Settlement Report.

3. The Concessionaire must:

a. Provide products or services of a quality satisfactory to the NAFI manager or their duly authorized representative.

b. Before beginning performance under this agreement, the Concessionaire will submit a listing of items, with corresponding selling prices, to the Contracting Officer for approval or disapproval action. The final approved listing is considered part of this agreement. Place the price list in a conspicuous spot for patrons to see.

c. At Concessionaire's expense, obtain all permits, give all necessary notices; pay all license fees; and comply with all municipal, prefectural, and national laws, rules, ordinances, and regulations, and any publication published by the military relating to public health or applicable to the business carried on under this agreement and assume complete and sole liability for all national, state, and local taxes applicable to the property, income, and transactions of the concession.

d. Comply with all applicable laws pertaining to wages, worker's compensation, equal opportunity, Service Contract Labor Standards Act, and so forth, as implemented by Air Force directives and required by law.

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- e. Comply with all memoranda, bulletins, and letters of instruction issued by or in behalf of the NAFI manager or their duly authorized representative.
 - f. Keep the concession area clean, orderly, attractive, secure, and in a safe and sanitary condition to the satisfaction of the NAFI manager.
 - g. Employ only persons who meet the health standards prescribed by law or regulations, which pertain to the jobs for which they are hired.
 - h. Furnish a sufficient number of trained employees for the efficient performance of this Concessionaire contract. Concession personnel must meet the health and security standards prescribed by applicable regulations, and must obtain installation passes and permits and security clearances as applicable. Concession personnel must give prompt and courteous treatment to authorized customers. Concession personnel must be neatly dressed and meticulous in their personal grooming at all times. Concessionaire provides employees clean uniforms or, when uniforms are not required, ensures that all clothing worn by employees is clean and in good condition at all times. A nameplate must be worn.
 - i. Remove from employment in the concession, on the request of the NAFI manager, any servant, agent, or employee of the Concessionaire if, in the opinion of the NAFI manager or their duly authorized representative, the conduct of such person, while in and about the premises covered by this contract interferes with proper services or discipline.
 - j. Obtain insurance for all non-Government property and merchandise used by the Concessionaire in the operation of the concession against theft, fire, storm, flood, and damage, or destruction through any other force of nature; or in lieu thereof, to relieve the NAFI from any liability arising from such theft, loss, damage, or destruction. The Concessionaire must have liability insurance commensurate with the risks involved, and furnish proof of such to the Contracting Officer.
 - k. Not leave cash on the premises during non-operational hours.
 - l. Be responsible for paying all operating expenses not expressly undertaken by the NAFI.
 - m. Maintain a Cash Collection Record, showing all income received, in accordance with instructions from the NAFI. Any failure by the Concessionaire, its servants, employees, or agents, to enter all monies received on control sheets will be cause for immediate cancellation of this contract.
4. Concessionaire will not:
- a. Represent or permit itself to be represented to the public as an agent or employee of the NAFI by the use of the name of the NAFI on letters, bills, signs, or by any other means.

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The Concessionaire, its servants, agents, and employees, are in no sense agents of the United States, the NAFI, the commander of the installation within which the concession exists, or of any other entity having to do with the operations of the NAFI.

- b. Sell or remove any property that is owned by the NAFI or any other part of the Federal Government and is used in the operation of the concession.
- c. Engage in or permit gambling or possession or use of any gambling device on the concession premises or elsewhere on the installation.
- d. Sell, deal in, or otherwise possess or transfer, on the concession premises, powdered alcohol or narcotics.
- e. Loan money to or borrow money from customers or others, which includes Federal Government (including NAFI) employees and military personnel.
- f. Sell merchandise or services for anything other than US currency, unless authorized in writing by the Contracting Officer.
- g. Sell merchandise or services on credit.
- h. Give or offer to any officer or employee of the NAFI, or any other part of the Federal Government, any gift, privilege, special benefit, discount, or anything else of material or personal nature whereby the individual or employee would receive preferential treatment.

5. General

- a. Air Force Auditor General personnel, Public Accountant Contract Audit personnel or any person designated by the installation commander, will have the right to inspect or audit the accounts and methods of internal control established by Concessionaire, and to make such inspection or audits as may be considered necessary to ensure strict compliance by Concessionaire with all provisions of this contract and with applicable Air Force regulations.
- b. This contract, unless sooner terminated as herein provided, may be extended for additional periods, each of which may not exceed (30) days (3) months by mutual agreement of the parties in writing, subject to approval in the same manner as this instrument.
- c. This contract is automatically terminated in the event the NAFI is dissolved.
- d. Any monies due and payable to the NAFI from the Concessionaire on the date of this contract must be paid in full or will remain due and payable until final settlement.

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SPECIAL PROVISIONS (Concessionaire Contract)

1. **Additional Definitions.** The terms Concessionaire and Contractor are used synonymously and mean the individual, partnership, corporation, or other entity which is a party to this contract and who is responsible for all actions and applicable regulations and performance thereunder.
2. **Termination:** Notwithstanding the clause titled "Termination for Convenience" of the General Provisions relative to termination of this Concessionaire contract, it is mutually agreed that this Concessionaire contract may be terminated in whole or in part by either party:
 - a. Immediately on written notice to the other party in the event of breach of this Concessionaire contract by the other party.
 - b. On 1-day notice in writing to the other party. No liability ensues to either party for terminations rendered pursuant to this subparagraph b.
3. **Actions To Be Taken Upon Termination (Including Expiration).** Concessionaire will promptly settle its account with the NAFI, including payment in full of all amounts due, yield up the facilities and all NAFI furnished property, clean and leave premises in as good order and condition as when received (exceptions are damages due to acts of God or the US Government, and ordinary wear and tear); surrender all installation passes, decals, and so forth, and complete satisfactory settlement of all customer complaints and claims. Termination of the Concessionaire contract does not release the Concessionaire from the obligation to satisfactorily settle customer complaints and claims. The Concessionaire will promptly remove all Concessionaire owned fixtures and supplies. On failure to remove the Concessionaire's property, the Contracting Officer may cause Concessionaire's property to be removed and stored in a warehouse at the Concessionaire's expense. If the Concessionaire is indebted to the NAFI, the Concessionaire authorizes and empowers the Contracting Officer to take possession of the Concessionaire's property and dispose of same by public sale without notice, and out of the proceeds of sale, satisfy all costs and indebtedness to NAFI.
4. **Indebtedness:**
 - a. The Concessionaire will pay promptly and in accordance with the terms all indebtedness incurred in connection with the performance of this Concessionaire contract.
 - b. The NAFI may charge the Concessionaire for a dishonored check received from the Concessionaire, except when the bank acknowledges the return to be the result of bank error or the return is the result of a NAFI error. The amount charged by the NAFI will not exceed the administrative amount normally charged NAFI customers for dishonored checks.
5. **Packaging/Price Marking.** If required by the Contracting Officer, the Concessionaire will furnish, at its own expense, suitable bags, "sold" labels, and so forth, for securing a customer's purchase. If required, the packaging will be approved by the Contracting Officer. All items

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will be marked to reflect the selling price.

6. Claims by Concessionaire. No claim by the Concessionaire relating to this Concessionaire contract may be considered by the Contracting Officer unless such claim is submitted in writing to the Contracting Officer not later than 90 days after the effective date of termination or expiration of this Concessionaire contract. This clause does not extend the period for filing claims where specifically limited by another clause.
7. Nonwaiver of Defaults. Any failure by the NAFI to enforce or require strict performance of any terms or conditions of this Concessionaire contract will not constitute a waiver, and will not affect or impair such terms and conditions in any way or effect the right of the NAFI at any time to avail itself of such remedies as it may have for breach or breaches of such terms and conditions.
8. Trade Fixtures and Supplies. The Concessionaire will furnish, at its expense, all trade fixtures and supplies required for performance of this Concessionaire contract.
9. Quality/Warranty. All products authorized for the Concessionaire to sell will be marketable and sufficient for use intended, and not be "seconds" as the term is usually understood in the trade. All items will be acceptable to the customer and the Contracting Officer and will be subject to inspection and test for workmanship and quality at all times by the Contracting Officer or designee. Any item found to have a latent defect(s) may be returned to the Concessionaire for replacement or refund as determined by the Contracting Officer.
10. Customer Complaints, Claims, and Refunds. The Concessionaire agrees to adhere to the NAFI policy of customer satisfaction guaranteed and will be responsible for refunds to customers due to customer dissatisfaction with an item or due to overcharges. All customer complaints, claims, and refunds will be resolved and made at Concessionaire's expense. Any disagreement that cannot be resolved between Concessionaire and the customer will be referred to the Contracting Officer, whose decision will be final and not subject to the Disputes clause. If the Concessionaire fails to process complaints or claims and make refunds in a timely manner, the NAFI may settle customer complaints or claims and make such refunds, and charge the settlement cost to Concessionaire's account.
11. Internal Controls of Charge-Card Sales:
 - a. Concessionaire will establish internal control procedures consistent with provisions of this Concessionaire contract and with NAFI directives for a complete and accurate accounting of all transactions.
 - b. Each sale will be recorded at the time sale is made. The form will be prepared in duplicate, reflecting the applicable sales data, and signed by the customer. The original of the completed form is attached to the Concessionaire Settlement Report and submitted to the supporting NAFI accounting office. The duplicate copy is retained by the Concessionaire.

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- c. Concessionaire may accept national charge cards customarily recognized in their commercial trade for customer payment of purchases. Concessionaire is responsible for the payment of any fees, charge backs, and other arranged costs levied by the charge-card-issuing companies.
 - d. The Contracting Officer, or designee, may conduct inspections considered necessary to ensure strict compliance by the Concessionaire with all provisions of this Concessionaire contract.
12. Concessionaire Settlement Report. At the conclusion of the sales period or as specified by the Contracting Officer, Concessionaire will prepare a Concessionaire Settlement Report signed by the Concessionaire showing the gross sales for the period and percent due the NAFI, and give the NAFI the fees due for that period. The original of the form reflecting sales data will be attached. AF Form 2555 is the preferred form to be used.
13. Utilities. The NAFI will furnish sufficient quantities of space, heat, water, and electricity to satisfy the normal needs of Concessionaire for lighting, heating, drinking, sanitation, and the operation of suitable support equipment.

NOTE: If the Concessionaire is required to reimburse the United States Government for utilities furnished, then the rates are set by the installation commander and agreed to by both parties.

14. Premises. The assignment of space is revocable and is not construed as the creation of tenancy. Concessionaire is liable for any damage to or loss of the premises and NAFI furnished property or injury to persons resulting from acts or omissions of Concessionaire, its employees, or agents, whether or not covered by insurance. Sublet of any of the premises assigned or assignment to another concession is not authorized. Use of the premises and NAFI furnished property for any purpose other than those specifically set forth herein is prohibited. Concessionaire will not make any alterations in the facilities provided without prior authorization from the NAFI manager. Concessionaire will comply with installation fire and safety regulations, and applicable health and sanitation regulations. Concessionaire will post or display on the premises any sign furnished by the NAFI.

15. Taxes:

- a. Concessionaire assumes complete and sole liability for all Federal, State, host country, and local taxes applicable to the property, income, and transactions of the Concessionaire, and where required by applicable laws and regulations, will collect and remit to the State applicable sales taxes. Sales taxes, which have been collected, are excluded from the computation of gross receipts in the determination of the fee payable to NAFI. The amount of taxes excluded will not exceed the actual sum payable to the State. Where required by State law or regulation, the Concessionaire will obtain and conspicuously display the State sales tax permit.
- b. The Concessionaire warrants that the amount payable to the NAFI has not been reduced by the amount of any tax or duty from which the Concessionaire is exempt. If any such

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tax or duty has been included the pricing or consideration through error or otherwise, the contract pricing or consideration will be correspondingly reduced or adjusted. If for any reason after the contract date, the Concessionaire is relieved in whole or in part from the payment or the burden of any tax or duty included in the contract pricing or other consideration, the contract pricing and other consideration will be correspondingly reduced or adjusted.