



## US Brig NIAGARA Sailing Program

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### STUDENT CONTRACT

#### **Introduction**

The Flagship Niagara League, Inc. (FNL) is a 501c(3) non-profit organization which operates the sailing school vessel (SSV) *Niagara* and assists with the administration of the Erie Maritime Museum on behalf of the Pennsylvania Historical and Museum Commission (PHMC). The PHMC is an agency of the Commonwealth of Pennsylvania, which owns the SSV *Niagara*. PHMC also administers the Erie Maritime Museum and retains oversight over the SSV *Niagara* and the Flagship Niagara League, Inc.

While sailing onboard the SSV *Niagara*, your duties and responsibilities will be similar to those of the professional crew. As a student, you are required to follow the lawful instructions of the professional crew as described in the Crew Handbook and in the Captain's Standing Orders, which can be found in the handbook. You must read the handbook before joining the ship, and abide by the Standing Orders at all times during your voyage.

#### **I. Risks and Informed Consent**

The sailing school vessel *Niagara* is inspected annually and certified by the United States Coast Guard. *Niagara's* captains and crew hold all required Coast Guard licenses. Since the inception of the *Niagara* Sailing Program in 1990, PHMC and FNL have maintained an exemplary safety record. Nevertheless, you should understand that going to sea remains, as it has always been, a potentially hazardous endeavor. Only you can decide whether you are willing to undertake those risks.

Such risks include both the predictable and unpredictable consequences of adverse weather conditions. They include the risk of collision with docks, bridges, other vessels, or floating objects. For a variety of reasons, a vessel may go aground, become flooded, capsize, or sink. There is always a possibility of fire or explosion at sea. Vital equipment may break or malfunction. There is a risk of falling overboard, of falling from rigging, or falling off a ladder.

The risk of personal injury is enhanced by many factors, including confined spaces, the pitching and rolling of the vessel, and working with lines under tension and with equipment that has moving parts. Stress, fatigue, and the effects of weather can increase personal anxiety or the risk of human error and magnify the consequences of such errors. Acute seasickness may produce physical debility, or magnify or disguise other medical symptoms. As discussed in Section IV.D below, access to medical care and medical supplies while at sea will be limited. You should be aware that, while the statistical likelihood is very small, going to sea does involve a risk of death or permanently incapacitating physical injury.

This catalog of scenarios is not intended to scare you. Our intention is to help you make an informed decision. If you feel that you would like more information on the subject of risk before deciding to enroll, we encourage you to call the FNL office. You should also be aware that living conditions aboard ship are quite crowded, and watch schedules are demanding and inflexible. There is relatively little opportunity for unstructured personal time. Students must be comfortable in an environment that demands commitment, teamwork, and respect for each other and for the captain's complete authority.

**II. Liability Waiver and Release**

By signing this Student Contract, you will be certifying as follows. I recognize that participating in FNL/ *Niagara* programs has inherent risks. Those risks include, but are not limited to, those that are discussed above. I acknowledge that those risks include virtually any kind of permanent injury and even death. I further recognize that my access to medical care while at sea will be very limited, and that at times it may be impossible to obtain timely and adequate medical care for any injury or illness. **I have decided to participate in this activity in full awareness of the risks described above.**

I, therefore, agree to personally **ASSUME ALL RISKS** of injury, illness, death, or other harm or damages which may occur in connection with this activity. I also agree that I will assume all responsibility for any costs and medical expenses that I may incur or that others may incur on my behalf as a result of my participation.

I agree that, except as provided below, I will not assert against FNL, PHMC, and their Partner Institutions (collectively, "FNL"), or against any their trustees, captains, officers, agents, managers, teachers and other employees, and will hold FNL harmless from any and all claims for injury, illness, death, costs, medical and other expenses, or any harm that may result to me in connection with my participation in an FNL/*Niagara* program.

This waiver specifically includes claims for injuries, illness or death that are solely or partially caused by any acts or omissions of FNL that are claimed to be negligent or to give rise to liability without fault, however the legal theory may be categorized.

I do not, however, agree to waive any claim for injury or death caused by FNL's gross negligence or willful recklessness, as that would be unfair and contrary to the laws of Pennsylvania.

*I further understand, acknowledge and agree that FNL and its captains have complete discretion to determine who they will take to sea, and, if any problem arises, who may continue to participate in the voyage. I understand that, if I am asked to leave the program, I will be responsible for all financial costs involved, including the cost of my return airfare and/or evacuation expenses.*

I understand that this Liability Waiver and Release is part of this Contract and that I am expressly waiving certain legal rights.

_____	_____	_____
<b>Dated</b>	<b>Print Student Name</b> (Required)	<b>Student Signature</b> (Required)
_____	_____	_____
<b>Dated</b>	<b>Print Name of Parent/Guardian</b> (Required for Students under age 18)	<b>Parent/Guardian Signature</b> (Required for Students under age 18)

### **III. Finances**

A. Tuition and Fees. Tuition and fees are reviewed annually and subject to change. As of the 2016 sailing season, tuition and fees for the *Niagara* Sailing Program are \$1,500 per 2-4 week program. For certain programs, an additional Program Fee may be assessed in order to pay for specialized program content or transportation costs. This tuition does not include additional tuition and fees for certain programs which may be imposed separately by partnering institutions, schools, colleges, and universities. Contact the Director of Marine Operations for detailed information about specific programs.

The \$300 initial deposit payment, which is required upon signing and submitting this contract, is included as part of tuition. The initial deposit is non-refundable unless the application is denied by the FNL Reviewing Physician for medical reasons. *Payment in full should be received no later than thirty (30) days before the start of the program, unless other arrangements have been made in advance with the FNL office.*

B. Cancellation, Expulsion and Refund Policy. If you cancel voluntarily less than 60 days before your program starts, the cancellation penalties listed below will apply to the full published tuition (or full amount due, if any, for scholarship recipients.) The penalty is not based on the amount paid to date on the day you cancel. FNL is not responsible for refunding tuition and fees that are assessed by our partner institutions.

- 45 days or more - 20% Penalty. We will refund all program fees and tuition paid to FNL except the non-refundable deposit of \$300, which is 20% of total tuition cost.
- 44-15 days - 60% Penalty. We will refund 40% of the total tuition. We will not refund program fees. This means that for a program costing \$1,500 in total, with no additional program fees, the trainee is entitled to a \$600 refund.
- 14-0 days - 100% Penalty. The trainee is entitled to no refund.
- Early Departure - 100% Penalty. If you leave due to an undisclosed pre-existing medical condition, choose to leave voluntarily, or are asked to leave the ship due to misconduct or illegal behavior, there is no refund.
- Emergency Cancellation- We give you a choice between a refund based on the cancellation penalties listed above or a credit toward a future program valued at the tuition amount you have paid. Contact the Director of Marine Operations for details.

C. Special Information for Parents of Minor Students (Under Age 18). We only require one legal guardian's signature. It is up to the signing parent/guardian to fulfill any obligations or decision-making agreements with any other parent(s) or guardian(s). Similarly, you are responsible for informing any third party payers of the FNL cancellation penalties. Any subsequent financial obligation is yours.

All students are thoroughly screened and we make every reasonable effort in good faith to ensure that every participant is an appropriate candidate for participation in FNL/*Niagara* programs. However, other students may adversely affect the experience by being less fit, less articulate, or less pleasant than you or your child. This is the nature of the experience and cannot be prevented.

All programs are co-ed unless otherwise published. However, there is no guarantee that the program will attract a mixed gender group. All activities occur in co-ed groups with varying degrees of instructor supervision, depending upon the activities, age, and length of the program. Students sleep in a co-ed communal compartment, with hammocks for berths, and have virtually no privacy except in the heads (bathrooms.)

D. Other Expenses for which you are personally responsible include the cost of your travel to and from your port(s) of embarkation and debarkation, as well as any personal expenses (other than those included in a set program fee, if applicable). You are responsible for your medical and insurance costs.

#### **IV. Criminal History and Background Check Required**

If you are over 18 years of age, you must authorize the FNL to seek a criminal history and background check. Criminal history will disqualify applicants from program participation; applicants with minor misdemeanors may be allowed to sail at the discretion of the captain. Any non-Canadian resident with an American DUI/DWI conviction is prohibited by Canadian law from entering Canada.

#### **V. Medical Care, Health Insurance, and Related Topics**

A. Physical Examination. To fully participate in programs onboard *Niagara*, you must be in good physical condition and sound psychological health. To this end, you must obtain prior medical clearance as per the instructions on the Medical Record form. When you arrive at the start of your program, you must inform us if anything has changed since the Medical Record was submitted. If you fail to fully disclose medical or psychological conditions, you may be required to withdraw from the program.

B. Insurance. You must provide evidence of adequate health insurance coverage for any medical conditions that may develop as a result of accident, illness or otherwise. Your insurance coverage must include the United States and its coastal waters, the Great Lakes, and Canada. Your coverage should also include the cost of emergency care in such locations. You may wish to consider purchasing medical evacuation insurance that would reimburse you for some or all of the very substantial costs associated with medical evacuation from the *Niagara* to a shore-based medical facility, or from a Canadian port to the United States. Medical evacuation insurance is available from a number of different insurance companies. Information about such insurance can be obtained on the Internet.

C. Medical Expenses. You are responsible for any medical expenses, including medical evacuation expenses, that you may incur or that may be incurred on your behalf. If FNL pays such expenses on your behalf, whether under emergency conditions or otherwise, and whether such payment is made with or without your permission, you agree to reimburse FNL for all such expenses.

D. Access to Medical Care while at Sea is very limited and may at times be non-existent. Our vessel can be more than 24 hours from any port where medical care may be found. There will be no physician or nurse aboard the vessel. Only basic first aid is available. SSV *Niagara* carries a modest medicine chest. Consequently, it is essential that you bring with you an adequate supply of any prescription medications on which you rely.

E. Authorization to FNL and Others to Act in an Emergency. You hereby authorize FNL to act on your behalf in the event that you become physically or psychologically ill or injured and are unable to provide informed consent for medical treatment. You further authorize FNL, the captain of the vessel and/or any physician or emergency personnel FNL may consult to administer emergency medical treatment, to hospitalize or otherwise secure or provide proper treatment for you, and to authorize or order injections, anesthesia, surgery or other medical treatment as may appear appropriate under the circumstances as determined by FNL. In the event of a medical emergency, FNL will make a good faith effort to contact your parents, guardian or other next of kin.

F. Permission to Disclose Medical Records and Personal Information. It may be necessary for FNL to disclose your medical records and personal information to FNL staff members and to anyone involved in your medical care that needs the information (e.g., physicians, hospitals, emergency personnel, or other persons or entities involved in providing you with medical care or assistance). By signing this Contract you are giving FNL permission to do so on a reasonable need-to-know basis. You are also authorizing FNL to disclose such information to your parents, guardian or other next of kin in an emergency situation.

**VI. Miscellaneous Provisions**

A. Illegal Conduct. In the event that FNL reasonably believes you have engaged in or are about to engage in any form of illegal conduct, FNL may, in its sole discretion or as required by law, report the situation to the appropriate authorities.

B. Applicable Law. This Contract shall be construed and interpreted according to the laws of the Commonwealth of Pennsylvania without regard to principles of conflicts of law. This provision is not intended to displace any applicable federal law or regulation.

C. Binding Effect. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective agents, representatives, attorneys, insurers, parents, subsidiaries, successors, assigns, and affiliates.

D. Severability. If any provision of this Contract is held ineffective, invalid or contrary to public policy or any law, the validity of the remainder of this Contract shall not be affected thereby.

**VII. Permission to Use Photographs**

I grant FNL, its representatives and employees the right to take photographs of me and my property in connection with the *Niagara* sailing program. I authorize FNL, its assigns and transferees to copyright, use and publish the same in print and/or electronically. I agree that FNL may use such photographs of me with or without my name and for any lawful purpose, including for example such purposes as publicity, illustration, advertising, and Web content.

**CERTIFICATE OF UNDERSTANDING AND AGREEMENT**

I certify that I have read, fully understand and agree to this Student Contract. I understand the risks that are referred to above. I have decided that I am willing to accept those and any other risks inherent in the FNL/*Niagara* Program.

I understand that my signing of this Contract will have significant legal consequences and that by doing so I am waiving or limiting certain legal rights that I might otherwise have.

I certify that I am at least eighteen years of age and am of sound mind to execute this Contract. If I am under eighteen, my parent or guardian must execute this Contract below my signature hereof.

I acknowledge that, before signing this Contract, I had the opportunity to request further information from FNL about any of the subjects that are discussed in the Contract. I also understand that, as with any contract, I have the right to seek independent legal advice if I so choose.

I agree that I have read and considered the Contract carefully and am signing it voluntarily.

\_\_\_\_\_  
**Dated**

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**Print Student Name** (Required)

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**Student Signature** (Required)

\_\_\_\_\_  
**Dated**

\_\_\_\_\_  
**Print Name of Parent/Guardian**  
(Required for Students under age 18)

\_\_\_\_\_  
**Parent/Guardian Signature**  
(Required for Students under age 18)