AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES	
J	1	12

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO.(If applicable)
0002	25-Jul-2024		

6. ISSUED BY CODE HTC711

USTRANSCOM-AQ - HTC711
508 SCOTT DR
SCOTT AFB IL 62225-5357

7. ADMINISTERED BY (If other than item 6) CODE

See Item 6

8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)

CODE FACILITY CODE

X	9A. AMENDMENT OF SOLICITATION NO. HTC71124RWV01
X	9B. DATED (SEE ITEM 11) 27-Jun-2024
	10A. MOD. OF CONTRACT/ORDER NO.
	10B. DATED (SEE ITEM 13)

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

[X] The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer [ ] is extended, [X] is not extended.

Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.
IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

[ ] A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

[ ] B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).

[ ] C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

[ ] D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor [ ] is not, [ ] is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

The reason for this amendment is to update Clause 52.212-4 (Tailored).

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) TEL: EMAIL:	
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA BY (Signature of Contracting Officer)	16C. DATE SIGNED 25-Jul-2024

SECTION SF 30 BLOCK 14 CONTINUATION PAGE

SUMMARY OF CHANGES

SECTION SF 1449 - CONTINUATION SHEET

The following have been modified:
52.212-4 (TAILORED)

52.212-4 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (MAY 2014) (tailored

pursuant to FAR 12.302(a))

* Indicates that the clause is not tailorable.
^ Indicates that the clause has not been tailored.

(a) INSPECTION/ACCEPTANCE (TAILORED)

(1) The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights --

(i) Within a reasonable time after the defect was discovered or should have been discovered; and

(ii) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(2) Additional inspection/acceptance terms and conditions specific to charters are found in Part III (b) of Charter Terms and Conditions.

*(b) ASSIGNMENT

The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C.3727). However, when a third party makes payment (*e.g.*, use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) CHANGES (TAILORED)

Changes within the general scope of any of the terms and conditions of this Contract may be ordered by the Contracting Officer. If any such change causes an increase or decrease in the cost of performance, such

change will be the subject of a bilateral modification to the Contract. However, nothing in this clause shall excuse the Contractor from proceeding with the Contract as changed.

*(d) DISPUTES

This contract is subject to 41 U.S.C. chapter 71,Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

^(e) DEFINITIONS (TAILORED)

The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) EXCUSABLE DELAYS (TAILORED)

(1) The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(2) The exceptions identified in subparagraph (1) above shall not be such as to affect the Owner's warranties respecting the condition of the Vessel, or the Owner's obligations respecting the services specified under this contract. Defaults of subcontractors at any tier or the Owner’s failure to perform due to a labor disruption, labor dispute, or strike shall not constitute excepted events under subparagraph (1).

*(g) INVOICE

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include --
(i)) Name and address of the Contractor;
(ii) ice date and number;
(iii) Contract number, contract line item number and, if applicable, the order number;
(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
(vi) ms of any discount for prompt payment offered;
(vii) me and address of official to whom payment is to be sent;
(viii) Name, title, and phone number of person to notify in event of defective invoice; and
(ix)) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
(x) Electronic funds transfer (EFT) banking information.
(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere

in this contract.

(B)) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.*, 52.232-33, Payment by Electronic Funds Transfer— System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C)) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

^(h) PATENT INDEMNITY

The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

*(i) PAYMENT

(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt Payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.

(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) Interest.

(i)) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period at fixed by the Secretary until the amount is paid.

(ii) Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B)) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C)) The Contractor requests a deferment of collection on a debt previously demanded bythe Contracting Officer (see 32.607-2).

(iv)) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B)) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C)) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) interest charge made under this clause may be reduced under the procedures prescribed in 32.608- 2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) RISK OF LOSS (TAILORED)

1. **Lost or Damaged Cargo**. The contractor is required to deliver cargo to its final destination in the same condition it was tendered by the shipper. The contractor is liable for cargo that is lost, damaged, or in any way altered from the tendered condition. Liability is governed by the applicable statute or multi-lateral international agreement based on the mode of cargo transportation (i.e. sea or land) at the location where the loss or damage occurred

2. Liability for Lost or Damaged Cargo.

2.1. Application of Carriage of Goods by Sea Act (COGSA). For containers, the United States Carriage of Goods by Sea Act 46 U.S.C. § 30701 (hereinafter "COGSA" or "the Act") is incorporated and shall apply to the ocean transportation of all goods, including goods in containers stowed on deck, under any Shipping Order with the same force and effect as if the Act applied to such carriage by express provision therein. For the purpose of interpreting Section 4 of the Act, "Limitation of Liability", the act of loading cargo into, or upon, a container shall not transform such containerized cargo into a single COGSA "package" (as defined herein). For example, the act of loading multiple boxes, bundles, or pieces of cargo into a container does not convert all boxes, bundles, or pieces of cargo into a single COGSA "package." The limitation of liability set out in Section 4 of the Act shall apply to each package in a container and the government packing list itemizing the cargo in the container is prima facie the controlling document for determining how many "packages" are in a container. The Government packing list is the document completed by the origin shipper listing the items in a container.

For breakbulk, COGSA is incorporated and shall apply to the ocean transportation of all goods, under any Shipping Order with the same force and effect as if the Act applied to such carriage by express provision therein. The COGSA limitation of liability for cargo not in packages is to each measurement ton of cargo. If the Government through its booking system (currently IBS) indicates an order is being shipped "breakbulk," the COGSA limitation of liability will be valued by the measurement ton of breakbulk cargo regardless of whether other shipping documents (i.e. shipping manifest, etc) refer to the breakbulk cargo as a single "piece," "unit," or other single item. The IBS booking document indicating "breakbulk" is the controlling document between the parties.

For all cargo, container and breakbulk, the carriage of cargo under any Shipping Order issued pursuant to this contract shall not be deemed or construed to be the carriage of cargo pursuant to special terms and conditions as provided for in Section 6 of the Act; and nothing in this solicitation is intended to relieve the contractor or the vessel from liability for loss or damage to or in connection with the goods arising from negligence, fault or failure in the duties and obligations provided by the Act or to lessen such liability otherwise than as provided therein.

COGSA shall apply from the point of delivery to the Contractor to the point of delivery to the Consignee whether in connection with intermodal or ocean-only transportation under this Contract. Accordingly, COGSA shall apply in determining the limits of a Contractor's liability, as set forth above, for loss or damage to cargo booked under this Contract arising at any time in the custody of the Contractor.

When the application of COGSA would not result in a limitation on liability, this contract also excludes any limitation on liability.

Upon U.S. Senate ratification of the United Nations Commission on International Trade Law (UNCITRAL) Convention on the Carriage of Goods Wholly or Partly by Sea (the Convention) or entry into force of the Convention (whichever event occurs first), the package limitation provisions of the Convention shall substitute for or otherwise stand in the place of the COGSA package limitation for

the purpose of determining the limits of a Contractor's liability for loss or damage to US Government cargo arising at any time in the custody of the Contractor .

Pursuant to the Contract Disputes Act, the Government has 6 years from discovery of loss or damaged cargo, to file a claim with the contractor. However, the Government will take all reasonable steps to provide notice of loss as soon as it is discovered.

2.1.1 Application of COGSA for Non-Government Owned Cargo. For containers, the United States Carriage of Goods by Sea Act 46 U.S.C. 30701 et seq. (hereinafter "COGSA" or "the Act") is incorporated and shall apply to the ocean transportation by the Contractor of all goods, including goods in containers stowed on deck, owned by a non-government cargo owner under any Shipping Order with the same force and effect as if the Act applied to such carriage by express provision therein. For the purpose of interpreting Section 4 of the Act, "Limitation of Liability", the act of loading cargo into, or upon, a container shall not transform such containerized cargo into a single COGSA "package" (as defined herein) For example, act of loading multiple boxes, bundles, or pieces of cargo into a container does not convert all boxes, bundles, or pieces of cargo into a single COGSA "package." The limitation of liability set out in Section 4 of the Act shall apply to each package in a container and the shipper or government packing list itemizing the cargo in the container is prima facie the controlling document for determining how many "packages" are in a container. The shipper packing list is the document completed by the origin shipper listing the items in a container.

For breakbulk, COGSA is incorporated and shall apply to the ocean transportation of all goods, under any Shipping Order with the same force and effect as if the Act applied to such carriage by express provision therein. The COGSA limitation of liability for cargo not in packages is to each measurement ton of cargo. If the shipper through its booking system indicates an order is being shipped "breakbulk," the COGSA limitation of liability will be valued by the measurement ton of breakbulk cargo regardless of whether other shipping documents (i.e. shipping manifest, etc) refer to the breakbulk cargo as a single "piece," "unit," or other single item. The shipper booking document indicating "breakbulk" is the controlling document between the parties and will determine whether cargo is valued as a "package" or by the measurement ton.

For all cargo, container and breakbulk, the carriage of cargo under any Shipping Order issued pursuant to this contract shall not be deemed or construed to be the carriage of cargo pursuant to special terms and conditions as provided for in Section 6 of the Act; and nothing in this solicitation is intended to relieve the contractor or the vessel from liability to the non-government cargo owner for loss or damage to or in connection with the goods arising from negligence, fault or failure in the duties and obligations provided by the Act or to lessen such liability otherwise than as provided therein. COGSA shall apply from the point of delivery to the Contractor to the point of delivery to the Consignee whether in connection with intermodal or ocean-only transportation under this Contract. Accordingly, COGSA shall apply in determining the limits of a Contractor's liability, as set forth above, for loss or damage to cargo booked under this Contract arising at any time in the custody of the Contractor.

When the application of COGSA would not result in a limitation on liability, this contract also excludes any limitation on liability.

Upon U.S. Senate ratification of the United Nations Commission on International Trade Law (UNCITRAL) Convention on the Carriage of Goods Wholly or Partly by Sea (the Convention) or entry into force of the Convention (whichever event occurs first), the package limitation provisions of the Convention shall substitute for or otherwise stand in the place of the COGSA package limitation for the

purpose of determining the limits of a Contractor's liability for loss or damage to US Government cargo arising at any time in the custody of the Contractor .

Pursuant to the Contract Disputes Act, the Government has 6 years from discovery of loss or damaged cargo, to file a claim with the contractor. However, the Government will take all reasonable steps to provide notice of loss as soon as it is discovered.

2.1.2 Application of COGSA for Barge Service. If the Contractor provides service via a barge system, the following additional provisions apply. The Contractor will be liable for cargo claims in accordance with COGSA from the time the cargo is loaded on a barge to the time the cargo is discharged from the barge. On any voyage, the Contractor will not invoke limitation of shipowner's liability under 46 USC § 30523 for aggregate losses or damages to cargo in barges to a value less than the limitation value of the tug(s) and barges at time of completion of the voyage. A barge will not be deemed to be a package within the meaning of the five hundred (500) dollar package limitation in Section 4(5). All containerized cargo in or on barges will be considered to be stowed underdeck.

The Government will not be liable for any damage sustained by a barge or tug while alongside a loading or discharging facility, except to the extent that it would be liable for such damage to an oceangoing vessel alongside such facility under the law and other terms of this contract. All barges will be equipped with sufficient battery-operated mooring lights, when required.

When the application of COGSA would not result in a limitation on liability, this contract also excludes any limitation on liability.

Upon U.S. Senate ratification of the United Nations Commission on International Trade Law (UNCITRAL) Convention on the Carriage of Goods Wholly or Partly by Sea (the Convention) or entry into force of the Convention (whichever event occurs first), the package limitation provisions of the Convention shall substitute for or otherwise stand in the place of the COGSA package limitation for the purpose of determining the limits of a Contractor's liability for loss or damage to US Government cargo arising at any time in the custody of the Contractor .

Pursuant to the Contract Disputes Act, the Government has 6 years from discovery of loss or damaged cargo, to file a claim with the contractor. However, the Government will take all reasonable steps to provide notice of loss as soon as it is discovered.

2.1.3 The COGSA liability limitations are not applicable to the Government's recovery from the Contractor for the cost of non-conforming transportation for pilfered or stolen cargo, including, but not limited, to enhanced ITV or enhanced security. This recovery is limited to the amount paid for the services by the Government.

^(k) TAXES

The contract price includes all applicable Federal, State, and local taxes and duties.

(l) TERMINATION FOR THE GOVERNMENT'S CONVENIENCE (TAILORED)

(1) The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contractcost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(2) Deactivation of any VISA stage prior to completion of a minimum activation period shall act as a de facto termination for convenience. The contractor shall be paid in accordance with the Schedule of Rates by stage for activated capacity during the remainder of the minimum activation period unless a lesser period is agreed in writing between the parties in which case such remainder compensation is waived. The Government obligation to compensate the contractor for the minimum activation period does not relieve the contractor from the responsibility to reintroduce the activated capacity/vessel back into commercial service during the remainder of the activation period.

(m) TERMINATION FOR CAUSE (TAILORED)

(1) The Government may terminate this Contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any Contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this Contract for default, such termination shall be deemed a termination for convenience.

(2) If this Contract is terminated while the Contractor has possession of Government goods, the Contractor shall, upon direction of the Contracting Officer, protect and preserve the goods until surrendered to the Government or its agent. The Contractor and Contracting Officer shall agree on payment for the preservation and protection of the goods. Failure to agree on an amount will be a dispute under the Disputes clause.

(3) The rights and remedies of the Government herein are in addition to any other rights and remedies provided by law or under this Contract."

^(n) TITLE

Unless specified elsewhere in this Contract, title to items furnished under this Contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) WARRANTY (TAILORED)

(1) General. The Owner warrants that the Vessel performing under this contract shall be in full conformity with the requirements, from the time of delivery and thereafter during the currency of this contract. Should any specification of the Owner in the Contract be in excess of a required specification elsewhere in this Contract, the Owner's specification shall prevail over the required specification.

(2) Regulatory compliance. The Owner warrants that the Vessel and all Associated Equipment shall be in full compliance with all applicable international conventions and all applicable laws, regulations, and other requirements of the nation of registry and of the nation(s) and local jurisdictions to whose port(s) and/or place(s) it is contemplated that the Vessel will be ordered hereunder. The Vessel shall additionally operate in compliance with the International Maritime Dangerous Goods Code. The Vessel shall be delivered and maintained in the highest class of a recognized classification society and be in compliance with all current safety, health, and pollution regulations promulgated by appropriate authorities, including the latest applicable ISO/IMO regulations. The Owner further warrants that the Vessel shall have onboard all certificates, records, or other documents required by the aforesaid conventions, laws, regulations, and requirements, including a Certificate of Financial Responsibility meeting the requirements of the U.S.Coast Guard (USCG) and promulgated pursuant to the U.S. Federal Water Pollution Control Act, as amended, and/or the Oil Pollution Act of 1990. (OPA90)

(3) Complement. The Owner warrants that the Vessel shall have an efficient and legally sufficient complement of Masters, Officers, and crew with adequate training and experience in the operation of all of the Vessel's equipment.

(4) Communications/Navigation Equipment. Vessel shall be equipped with all navigation equipment required by USCG or flag state (if non-US Flag) as appropriate and in full compliance with all international requirements and regulations. Vessel must also have INMARSAT, facsimile and email capability and, if not included on Q-88, contractor shall provide contact numbers for same on award.

(5) Financial Responsibility. Owner warrants that it has secured, and carries aboard the Vessel, a Vessel Certificate of Financial Responsibility (Water Pollution) issued by the USCG in accordance with 33 C.F.R. 138.65.

(6) Remedies. Should actual performance or readiness condition of the Vessel show any failure to satisfy one or more warranties or other Charter requirements not due to the fault of the Charterer, the hire may be equitably decreased, this Charter may be terminated, or the Vessel may be placed off-hire, at the Charterer's option so as to indemnify the Charterer to the extent of such failure. However, in all cases the Owner shall bear the cost of excessive fuel consumption resulting from the Owner's breach of its fuel warranties. The foregoing remedies shall not limit other recoveries available under law or within this Charter.

(7) Additional fuel and speed warranty terms for charters are found in Part III (p) of Charter terms and conditions.

^(p) LIMITATION OF LIABILITY

Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

^(q) OTHER COMPLIANCES

The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

^(r) COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS

The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) ORDER OF PRECEDENCE (TAILORED)

Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) Information set forth in the VISA Carrier Vessel Information Sheet (former DCC Boxes);

(2) Paragraphs (b), (d), (g), (i), (q) and (r) of FAR 52.212-4 (as tailored);
(3) The clause at FAR 52.212-5;
(4) Any remaining addenda or portions thereof within this solicitation or Contract;
(5) The Standard Form 1449;
(6) Solicitation provisions if this is a solicitation;
(7) Other documents, exhibits, and attachments.

^(t) SYSTEM FOR AWARD MANAGEMENT (SAM)

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(i)) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:

(A) Change the name in the SAM database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(C)) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through https://www.acquisition.gov.

^(u) UNAUTHORIZED OBLIGATIONS

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End Use License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person

or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) ither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(End of Summary of Changes)