MSC TUGTIME 2026 (06-26)

PREAMBLE

Preamble

A. This Request for Proposals (RFP) is a solicitation for offers to perform a contract in accordance with the terms and conditions herein.

B. The charter, when awarded, will consist of the completed Standard Form (SF) 1449, this Preamble, and completed PARTS I through IX.

C. The signature of the Contracting Officer on SF 1449 signifies acceptance of the contractor's proposal, as amended, and award of the charter. The offeror's proposal, as revised, is hereby incorporated into the contract as an attachment as defined by the Order of Precedence section, the SF 1449, and PARTS I through IX contain in full all of the amendments, references, responses, deletions, additions and interlineations made by both parties to the RFP and the proposal as of the charter party date. In the event that there is any inconsistency between the terms and conditions of this contract and those in an offeror's proposal, this contract shall control. All references to sections in PARTS II through IX shall be to PART I sections unless otherwise stated.

D. Each of the parts or any portion thereof of this charter party shall be deemed severable, and should any part or any portion thereof be held invalid, illegal, or unenforceable, the remaining parts and portions thereof shall continue in full force and effect. The headings herein are for the sake of convenience and reference only, and shall not affect the interpretation of this charter party.

E. The following tables will be filled in by the government at award:
   a. Rate Schedule
   b. CLIN price and quantity data (for pass-through reimbursable items)
   c. Vessels Under Charter

Both a., Rate Schedule; and c., Vessels Under Charter, will be filled in with the data offered in the awardee's proposal.

(End of Preamble)

MILITARY SEALIFT COMMAND
COMMERCIAL SERVICE ACQUISITION
TUGTIME CHARTERS

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Description Changes
Part I, Updated Sections: 14, 19, 20, 25, & 26.
Part I, Added Section: 40
Part II has been deleted and replaced in its entirety.
Part III has been deleted and replaced in its entirety. Part II (2) of the 2025 Proforma can now be found here.
Part IV remains unchanged.
Part V is hereby “Reserved”
Part VI has been deleted and replaced in its entirety.
Part VII has been deleted and replaced in its entirety.
Part VIII has been deleted and replaced in its entirety. Relevant portions from Part III of the 2025 Proforma can now be found here.
Part X has been deleted and replaced in its entirety.
Part XI has been deleted and replaced in its entirety.
Part XII is hereby “Reserved.”

PART I

PERFORMANCE WORK STATEMENT

1. **SCOPE OF WORK:** MSC requests four (4) time-chartered, U.S. flag, Jones Act compliant, tugs to provide harbor support services and ship handling at Joint Base Pearl Harbor-Hickam, HI. These tugs must meet requirements of 46 USC 55111. This contract is for mission-essential requirements that cannot be satisfied with government-owned, controlled or time-chartered vessels (both current and follow-on contracts). The following list, is not all- inclusive in either scope nor description, is illustrative of the services to be performed:

   (a) Towing, twisting, mooring, berthing, docking, streaming, shifting, assisting, pulling, and escorting various vessel types, barges, submarines, crafts, hulls, sleds, derricks, lighters, and objects of whatsoever nature including anything carried thereon. Government reserves the right to use Government-owned, controlled, or chartered Tugs or vessels separately or jointly with Owner's Tugs in the performance of any services listed in this Contract.
   (b) Transfers of pilots and Government Personnel by Tug.
   (c) Tug emergency support services, including responses to weather conditions, threatening vessels, piers, dry- docks, or shore facilities; shipboard fires; vessels aground; vessel equipment failures; downed aircraft; oil spills; missions of mercy; collisions; ammunition mishaps; search-and-rescue operations; shipboard casualty; and National Defense Emergency
   (d) Line handling
   (e) Providing personnel (other than a riding crew) to go aboard a tow.
   (f) Owner's Representative shall provide adequate staff and communications to promptly respond to Government's requests for services under this Contract on a 24-hour-day basis per section 4 below.

2. **AREA OF OPERATIONS:** The place of performance shall be in the geographical region(s) of Joint Base Pearl Harbor-Hickam, HI and the surrounding navigable waters, including all of Oahu Island. Within this geographical region, the Tug may be ordered to any berth, dock, anchorage, wharf, place, open roadstead, submarine line, or alongside any vessel, barge, lighter, submarine, craft, hull, derrick, or object of whatsoever nature that the Government may direct, provided the Tug can lie always afloat except in harbors or waters where it is customary and safe in the port to work aground. The Government may reassign the Tug to a different berth within the Geographical Region on a temporary or permanent basis to meet emergent requirements. The Tug shall remain on site at the base assigned 24 hours a day, 7 days a week when not on mission, undergoing refueling or required at a shipyard.

3. **CONTRACT STYLE:** Firm Fixed Price with pass-through reimbursable elements.

4. **PERIOD OF PERFORMANCE:**

   a) One firm period and four option periods for a total of 59 months.

PERIOD NAME	DURATION	COMMENCEMENT DATE	END DATE
Firm Period	366	01 March 2027	29 February 2028
Option One	365	01 March 2028	28 February 2029
Option Two	365	01 March 2029	28 February 2030
Option Three	365	01 March 2030	28 February 2031
Option Four	337	01 March 2031	31 January 2032

   b) The total performance period under this charter party contract shall not exceed 59 months.

5. **AVAILABILITY:** The vessel(s) shall be available 24 hours a day, 7 days a week. After receiving a request for service from an authorized government official (see “Requests for Serviced” below), vessel(s) shall be fully crewed

and ready for service in accordance with the response times in the table below.

6. **NOTIFICATION:** When tug service is requested, service shall be provided within the time specified in the "Required Response" boxes below.

TIME	REQUIRED RESPONSE
Straight Time – Port hours 0600-1800 (Mon. – Fri. except weekends and Federal Holidays).	1 hour Unless scheduled by 1200 the previous workday
After-hours – All hours not covered in straight time, and all weekends and Federal Holidays.	2 tugs – 1 hour 2 additional tugs (4 tugs) – 2 hours Unless scheduled by 1200 the previous workday

7. **SCHEDULE OF ESTIMATES:** The following estimates are not a guarantee of work. This information is provided for estimation purposes only. Any difference in the actual numbers or workload experienced shall not form the basis for any claim or equitable adjustment. ***However, any after-hours work in excess of the estimated below will be reimbursed IAW the rates established in Section 10. Any after-hours not used by the Government in the Schedule of Estimates shall be carried over to the following periods of performance.**

PERIOD	ESTIMATED AFTER-HOURS USE (HOURS PER YEAR PER TUG)
Firm Period	400 hours
Option 1	600 hours
Option 2	400 hours
Option 3	600 hours
Option 4	400 hours

8. **DELIVERY/REDELIVERY LOCATION:** Joint Base Pearl Harbor-Hickam, HI

9. **TUG CHARACTERISTICS:** The tug(s) chartered under this charter party contract shall have the minimum characteristics as described in the chart Tug Characteristics. Specifications and characteristics exceeding the minimum, if offered and accepted by the government, are incorporated by reference upon contract award.

CHARACTERISTIC	MINIMUM	CHARACTERISTIC	MINIMUM
FLAG	USA	CLASSIFICATION	Documented compliance with a recognized marine safety program (examples of this include classification by recognized regulatory society (i.e. IACS), demonstrated adherence to American waterways operators responsible carrier program, ISM certification, etc.)
PROPULSION TYPE	Tractor like	MAXIMUM LENGTH OVER ALL	110 feet

BOLLARD PULL	Forward 100,000 lbs. Astern 70,000 lbs. Athwart ship 70,000 lbs.	FENDERING AND CONFIGURATION	Configured with clean non-marking fendering to prevent metal-to-hull contact with surface and sub-surface vessels under normal conditions of pitch and roll. Fendering shall be firmly secured to vessel along the entire length. Fendering includes propeller guards, if applicable.
TRANSIT SPEED	11 knots minimum at 80% rated horsepower in moderate weather (Douglas Sea Scale)	MAXIMUM DRAFT:	16 feet (salt water), fully laden.
PASSENGER CAPACITY:	12 people in addition to master and crew, without provisions for victualing and berthing.	ENDURANCE	7 days endurance with a minimum operational range of 500 nm.
COMMUNICATION EQUIPMENT	Minimum required by the U.S.C.G. and FCC for inland and international waters. Additionally, shall have external loud hailer, two sets of fixed VHF radios and two sets of portable VHF radios functioning on a marine frequency. Shall have a transceiver capable of working at 2-30 MHz at 100-Watt output.	FIREFIGHTING EQUIPMENT	Each tug shall have fire-fighting systems capable of providing 3000 GPM at the fire pump. Shall have sufficient fire monitors to provide 360° coverage at 1000 GPM at 125 PSI. Shall have minimum of two (2) fire stations, one port, and one starboard. Firefighting system shall be capable of having AFFF foam injected into it for firefighting. Be equipped with a portable de-watering pump capable of 250 gpm at 33.5 ft rated head.
WINCHES	Each tug shall have a total of three winches for services performed under this contract. Each winch shall have a minimum safe working load of 9,000 lbs. Further, each shall have 40 feet per minute pay-out/haul-in speed. All shall be capable of handling 8” lines.	PILOT TRANSFER CAPABILITY	Tug shall have sufficient handholds and/or platform to safely transfer pilots to and from vessels under normal sea conditions.
NAVIGATION EQUIPMENT	Minimum required by the U.S.C.G for inland and international waters to include a radar, fathometer and GPS.	SEWAGE CAPACITY	Minimum of 24 hrs.

LINES	Tug shall be equipped with sufficient synthetic lines to perform port services. Contractor will identify the type of line(s) and its intended use. Will log the date each line was put into service. Keep on hand the load tests and specifications of the line. Log will be kept in the pilot house for review by the COR.	OTHER REQUIREMENTS	Each tug shall be capable of performing work in winds equivalent to Beaufort force 8 (wind speed of 34-40 knots).
BROW	One brow to allow for the safe transfer of two passengers at a time. The brow shall be a minimum of two feet in width for the entire length. Such brow shall be of sufficient length to assure safe passage of personnel from the tug to the deck of a TRIDENT Submarine. The end of the brow shall be fitted with rubber-coated rollers or non-marking skids to prevent metal-to-metal contact between brow and submarine deck; each side shall have handrails and midrails. Transfer to submarines other than TRIDENT class will be required. TRIDENT is only identified as the worst case brow transfer arrangement.	BASE ACCESS VETTING	Contractor shall provide a completed form JBPHH 0-180 to the COR for vetting access for each crewman entering the base. This form contains PII (which shall be protected IAW the Privacy Act of 1974): Name, SSN. Place and Date of Birth and Gender for the purpose of determining base access. Crewmen not receiving positive feedback will not be allowed to perform on this contract. The COR will provide the contractor with a copy of the form.

10. **PRICING SHEET:** Daily Rate: The daily rate shall be inclusive of weekends, holidays and after-hours (as estimated in Part I, Section 7), based on the required availability above. Daily rate is exclusive of fuel, which shall be supplied/pass-through reimbursed by the government.

	FIRM PERIOD	OPTION PERIOD 1	OPTION PERIOD 2	OPTION PERIOD 3	OPTION PERIOD 4
Tug #1 Daily Rate					
Tug #2 Daily Rate					
Tug #3 Daily Rate					
Tug #4 Daily Rate					
Tug #1 After-Hours Rate					
Tug #2 After-Hours Rate					
Tug #3 After-Hours Rate					
Tug #4 After-Hours Rate					

Tug #1 Delivery/Redelivery Fees					
Tug #2 Delivery/Redelivery Fees					
Tug #3 Delivery/Redelivery Fees					
Tug #4 Delivery/Redelivery Fees					

11. **FUEL CONSUMPTION RATES:**

KNOTS (NM)	NET BBLS PER DAY	OPERATING RANGE
01>		
02>		
03>		
04>		
05>		
06>		
07>		
08>		
09>		
10>		
11>		
12>		
13>		
14>		
15>		

12. **WAGE DETERMINATION.** Wage Determination #2015-0213, Rev 41, dated 25 June 2026 is incorporated into this contract and is available upon request or at www.msc.navy.mil click on Contracts/Library of Common Documents.

13. **FUNDING.** Funding will be added for each period. Expenditures may not exceed the funding on any CLIN for that purpose.

14. **DAILY HIRE RATE STRUCTURE**

(a) **Daily Hire:** Except as otherwise provided herein, the daily hire rate shall be considered payment in full for all services of the vessel and associated equipment and all other requirements under this charter party contract, including, but not limited to penalty time, bonuses, payments, and emoluments payable to Master, Officers and crew for services under this charter, irrespective of the geographic scope of said service and the nominal carriage of ammunition and hazardous cargoes. The daily hire rate shall also be considered payment in full for all after-hours, including but not limited to crew overtime or penalty time required for the making up or breaking of tows. This rate does not include port charges or the price that the contractor pays for fuel. In addition, the daily rate shall include the estimated after-hours as outlined in Section 7 Schedule of Estimates.

(b) **After-Hours**: The after-hours rate is the hourly differential to be added to the daily hire rate and shall cover all additional costs for operating the vessel during after-hours periods and shall be prorated to the nearest quarter-hour. This Rate does not include port charges or the price that the Contractor pays for fuel. In the event, the Government exceeds the estimated hours in the Schedule of Events the Contractor will be entitled to bill in accordance with the reimbursable section of the contract. The after-hour rates are established in the After-Hours table in Section 10.

(c) The rates to be paid under this charter party contract, as offered and accepted at the time of award, are provided in the table, Price Sheet, which shall be filled-in by the government at the time of award.

15. **CHARTER PERIOD**. This Charter shall be for the periods designated in the table of Periods of Performance shown above, commencing upon the date shown or the Charterer's acceptance of the Tug(s), whichever occurs later, and continuing until the date of completion. Each tug shall be considered to have separate performance periods. Any optional periods shall be stated in the contract; in addition, the Government shall have the Time Lost options as specified under this contract and an option to extend services as specified in this contract. All optional periods shall be in direct continuation. Options shall be exercised pursuant to FAR clause 52.217-9 or FAR clause 52.217-8 of this contract.

16. **TIME LOST.**

(a) **Tacking to the End of Charter Period**. Any time lost by the vessel during the term of this charter (including during any option period) due to breakdown of machinery, interference by authority, collision, stranding, fire or other accidents or damage to the vessel; or repairs, inspections, overhaul and alterations, preventing the work of the vessel, shall be added to the charter period at charterer's sole option, declarable at least thirty (30) calendar days prior to the termination of the charter period. Hire for such additional declarable period shall be at the rate in effect on the date said declaration was made.

(b) **Excessive Time Lost**. The government may by written notice cancel this charter or contract at no cost to the government whenever, in any given contract period, for any reason whatsoever, more than thirty days are lost except for time lost as a result of the causes set forth in the "War" section of this contract. See clause 52.212-4. Failure to cancel this charter after thirty days are lost shall be without prejudice to any other rights of the charterer, or any later right of the charterer to cancel this charter party.

(c) **Relationship to Other Remedies**. No remedy conferred by this paragraph upon the charterer is intended to be exclusive of any other remedy, but every such remedy shall be cumulative and shall be in addition to every other remedy already conferred by this charter party now or hereafter existing at law or in equity or by statute.

17. **DELIVERY**.

(a) The vessel(s) and all associated equipment shall be delivered in the condition described below to the charterer at a port or place indicated in the "Delivery/Redelivery Location" section, not later than 1600 hours local time (place of delivery) on the canceling date stated. The contractor shall give written Notice of Readiness (NOR) during office hours to the appropriate government representative at the port or place of delivery on a working day (Saturdays, Sundays, or other recognized weekly days of rest, U.S. Government holidays, and holidays observed at the delivery port, whether national or local, shall not be considered working days). Government inspection of the vessel shall be completed within a reasonable amount of time thereafter, not exceeding twenty-four (24) hours after proper tender of the notice of readiness (Saturdays, Sundays, or other recognized weekly days of rest, U.S. Government holidays, and holidays observed at the delivery port, whether national or local, excepted in the computation of said twenty-four hour period). Hire shall commence upon acceptance of the vessel(s) by the charterer but not before the commencing date stated in the solicitation, unless approved in writing in advance by the Contracting Officer. Charterer shall have the liberty to cancel this charter at no cost to the government should the vessel(s) or associated equipment not be ready in accordance with the provisions hereof by the canceling date. Said cancellation is to be declared not later than twenty-four (24) hours after 1600 hours local time (place of delivery) on the stated canceling date. Nothing in this paragraph shall limit any remedy of the government otherwise available at law, in equity or under this charter party contract.

(b) **Condition**. The vessel(s) and all associated equipment shall be seaworthy, properly and efficiently manned and trained, equipped, supplied, and in every way suitable and adequately fitted for and in all respects ready for the service contemplated under this charter party. Any associated equipment shall upon delivery be as described in this charter party and all equipment shall be operable. The owner shall exercise due diligence to maintain the vessel(s) and associated equipment in such state during the period of the charter party.

18. **REDELIVERY**. Unless lost, the vessel(s) shall be redelivered at a port or place indicated in the above table. Charterer shall notify contractor of the place and date of redelivery no later than the time shown in the performance work statement.

19. **AUTHORIZED TUGS**.
(a) The tugs used for performance of this contract shall be only those identified in the table below (to be filled in upon contract award), or any authorized substitutes provided in accordance with the Substitution of Tugs section of this Contract.

Name	BHP	Bollard Pull	Name	BHP	Bollard Pull
Tug # 1			Tug #3		
Tug # 2			Tug #4		

(b) Substituted vessel(s) chartered under this charter party contract shall have the minimum characteristics as described in the PART I Tug Characteristics. Specifications and characteristics exceeding the minimum, if offered and accepted by the government, are incorporated by reference upon contract award and become the minimum requirement.

20. **SUBSTITUTION OF TUGS.**
(a) Substitution of tugs is authorized, but only for good cause shown and upon proper notice to the government and approval of the Contracting Officer. Notice of intent to substitute by the contractor shall identify the tug being substituted and the tug for which substitution is being made and shall provide the Contracting Officer with sufficient information on which to base a determination regarding good cause for substitution and the acceptability of the nominated substitute vessel. Notice shall be submitted in writing and shall be submitted sufficiently in advance to permit the Contracting Officer to make a reasoned determination regarding good cause and substitute tug suitability. If circumstances require oral notification, said notice shall provide all of the above required information and shall include a statement of circumstances that preclude a written notice prior to substitution. Confirmation of the information given in an oral notice shall be submitted to the Contracting Officer in writing within forty-eight (48) hours of the giving of oral notification.

(b) Notwithstanding the above, the COR(s) identified for this contract are authorized to approve tug substitutions, replacing tugs listed in "Authorized Tugs" Part I, Section 19 with approved substitute tugs listed in the table below. The contractor shall notify the Contracting Officer upon receiving approval for such a substitution by the COR(s).

AUTHORIZED APPROVED SUBSTITUTE TUGS:					
Name	BHP	Bollard Pull	Name	BHP	Bollard Pull
TBD			TBD		
TBD			TBD		
TBD			TBD		

(c) The contractor shall fix and deploy a substitute tug within a period of six (6) hours of submission of notice of substitution or within six (6) hours of the commencement of any off-hire whichever occurs first. (See "Off-hire and Loss of Vessel" sections.)

(d) Any tug offered as a substitute shall meet the minimum characteristics as described in the section titled "Tug Characteristics." Any tug substituted under this section shall result in no increase to the price of this charter party and substitution shall result in no operation delay for charterer except as provided above. It shall not otherwise excuse any other performance required under this charter party.

(e) Contracting Officer's notice of acceptance or rejection of the substitute tug shall be made within reasonable time following owner's nomination thereof, provided that the Contracting Officer is furnished sufficient information on which to base such a determination. Silence of the Contracting Officer shall not be construed as acceptance of any nominated tug.

(f) Notwithstanding charterer's prior acceptance of any substitute tug under this paragraph, charterer may at any time reject any previously accepted substitute vessel if it is determined that the characteristics of that substitute tug were misrepresented by the contractor or are otherwise unsuited to the requirements of this contract.

21. **TUG COMPLEMENT AND CREW.**

(a) The Master(s), Officers and entire crew shall be U.S. citizens, speak English fluently and possess valid and current certificates, licenses, and documents. The Master, Officers and crew of the tug(s) shall be appointed or hired by the contractor and shall be deemed to be the servants and agents of the contractor at all times except as otherwise expressly specified in this contract. The Master(s) of the tug(s) shall be under the direction of the government as regards the employment of the tug(s) under a given order, but shall not be under government's orders as regards navigation, care, and custody of the tug(s).

(b) Physical security equipment required to meet port security plans shall be contractor-furnished.

(c) All contractor employees shall wear a contractor-furnished uniform with contractor and individual identification clearly and permanently marked. Individual employee names shall be visible on front of outer clothing. Contractor name shall be visible on the upper back of uniforms.

(d) All contractor employees shall have in their possession photo identification at all times when working under this charter party contract.

(e) If the charterer shall have reason to be dissatisfied with the conduct or performance of the Master, Officers, or crew, the contractor shall, on receiving particulars of the complaint, investigate the matter and, if necessary to alleviate the cause of the complaint, make a change in personnel.

(f) Each tug Master shall hold a **Master of Towing Vessels** officer endorsement on your Merchant Mariner Credential (MMC) from the U.S. Coast Guard (USCG) National Maritime Center.

22. **SECURITY CLEARANCES.** Reserved.

23. **DRY-DOCKING.**

(a) Contractor, at its expense, shall dry-dock, clean and maintain the vessel's bottom and propeller, and properly make all overhaul and other necessary repairs to maintain the vessel in class, maintain the vessel in compliance with this contract and its warranties above, and otherwise to keep the vessel tight, staunch, and strong, and in thoroughly efficient order and condition. All towage, pilotage, fuel, gas-freeing if required, water, and other expenses incurred during dry-dock, and while proceeding to and from dry-dock shall be for owner's account.

(b) All dry-dockings under this clause shall be scheduled with the charterer and shall be subject to the Off-Hire section.

24. **EMERGENCY SITUATIONS AND TRAINING.** This paragraph shall be incorporated into this contract ONLY if the following is checked _X_.

(a) **General.** In the event that the owner is unwilling or unable to perform those duties as directed by the Port Operations Director or his designated representative that the emergency so requires, the owner agrees to relinquish custody and control of the tug(s) to the government in order to allow the government to respond to the emergency situation using the owner's tug(s)/equipment augmented in whole or in part by a government crew. Such determination shall be provided to the Tug Master or designated representative by the Contracting Officer or the Contracting Officer's Representative (COR). The period of government

operation and control shall not exceed that time required to respond to the emergency and properly return the tug(s) to owner's control.

(b) **Mitigation.** Owner's release of the tug(s) for emergency operation by the government shall serve to mitigate owner's liability, if any, under the Termination for Cause section of this contract. (See FAR 52.212-4.) The value of the release of tug(s) to the government shall be offset against the contractor's liability under the Termination for Cause section. During a period of partial or complete augmentation of crew by the government, as a result of default, the owner shall not be entitled to charter hire.

(c) **Owner Responsibility.** The owner shall cooperate and provide assistance in reactivation of the tug(s) from cold iron and provide any other assistance directed by the authorized government representative(s).

(d) **Government Responsibility.** The government shall be responsible for loss or damage to the tug(s) during periods of complete crew augmentation by the government. During periods of partial crew augmentation, the government shall be liable for damages resulting from government action in accordance with the Federal Tort Claims Act.

(e) **Condition of Default.** Any failure, untimely response, or refusal to perform any of the services outlined in this contract may be considered a condition of default under this charter, unless otherwise excepted.

(f) **Training.** The owner shall provide the use of the tug(s) and master(s) and crew(s) to train government personnel in the operation of the tug(s) as directed in writing by the Contracting Officer or COR; said writing to be provided at least 24 hours in advance of the training. The training shall not be "crew augmentation" for purposes of subsection (f)(i) of this section. The owner shall not be relieved of responsibilities under the section titled "CHARTER NOT A DEMISE" of this charter during training. See clause 52.212-4.

i) Such training shall include, but not be limited to, the full operation of the tug(s) (e.g., reactivating from cold iron; underway operation; and towage of vessels/submarines). Training shall include hands-on exercises and shall be conducted to ensure that government personnel are able to properly, effectively and safely augment or replace the owner's crew. Training shall be of sufficient quality to allow for partial or complete augmentation of the contractor's crew.

ii) Training shall take place during normal operating hours.

iii) Training shall be conducted to ensure that government personnel are able to operate the tug(s) properly, effectively and safely in the event of an emergency.

25. **SHIP PHYSICAL SECURITY.** The owner will comply with and implement the Navy Force Protection and Security requirements for the port in which it is docked or berthed (e.g. Network Database Identification System (DBIDS)). All costs shall be included in the basic hire, except for Contracting Officer directed material purchases over $100 in total value, which shall be subject to the Pass Through Reimbursable Expenses section of the contract.

26. **OFF-HIRE – GENERAL.** In the event of the loss of time resulting from deficiency and/or default of men including but not limited to misconduct, illness, injury, strikes, labor disruptions, lockouts; deficiency of stores; fire; breakdown of or damage to hull, machinery, or equipment; collision; stranding; grounding; detention by authorities; average accidents to vessel or cargo unless resulting from inherent vice, quality, or defect of the cargo; repairs; inspections; all dry-dockings including those for the purpose of examination/inspection or painting bottom but not for those dry-dockings under the Alterations section in PART II or deviation for the purpose of landing any ill or injured person on board other than any passenger, supercargo, or military personnel who may be carried at charterer's request; or by any other cause whatsoever preventing the full working of the vessel, the payment of hire shall cease for all time lost until the vessel is again, at a position not less favorable to the charterer than that at which such loss of time commenced, ready and in a fully efficient state to resume her service. Should the vessel deviate or put back during a voyage contrary to the orders or directions of the charterer for any reason, the hire is to be suspended from the time of her deviating or putting back until she is again, at a position not less favorable to the charterer than that at which such loss of time

commenced, ready and in a fully efficient state to resume her service. When the period of time lost to the charterer on any one occasion is less than two (2) consecutive hours, the hire shall not be reduced for such period, provided no missions were missed during that period of time. Off-hire is on a per tug basis. Offeror may be allowed to substitute a vessel in accordance with the Substitution of Tugs section. The off- hire will be calculated as a percentage of the 24- hour daily rate.

(a) **Costs For Owner.** The cost of fuel consumed while the Vessel is off-hire, as well as all port charges, pilotages, and other expenses incurred during such period and consequent upon the putting in to any port or place other than that to which the Vessel is bound, shall be borne by the Owner. All fuel used by the Vessel being driven into port or to shallow harbors or to rivers or ports with bars, the delay of the Vessel and/or expenses resulting there from shall be for Charterer's account.

27. **LOSS OF VESSEL**. Should a tug be either lost or missing, or become a constructive total loss, the portion of the charter for such tug shall terminate or hire shall cease to be payable at the time of the loss or, if said time is unknown, at the time of the tug's last received communication. If the tug should be off-hire or missing when a payment of hire would otherwise be due, such payment shall be postponed until the off-hire period ceases or the safety of the tug is ascertained, as the case may be.

28. **DELAYS/ EXCESSIVE FUEL CONSUMPTION.** If upon any passage the vessel fails to make the warranted speed or if her warranted fuel consumption exceeds that offered due to defect in or breakdown of any part of her hull, machinery, or equipment; casualty; or inefficiency of Master, Officers, or crew or their failure to proceed with utmost dispatch, and if the vessel is delayed more than two (2) hours, provided no missions were missed during that period of time, the hire for the time lost and any cost of extra fuel consumed, if any, shall be borne by the owner.

29. **REQUESTS FOR SERVICES within the scope of this Charter Party contract may be issued by:**
    (a) Contracting Officer; or
    (b) Port Operations Officer, or his /her designee; or
    (c) Contracting Officer's Representative (COR).

30. **PASS THROUGH REIMBURSABLE EXPENSES**
    (a) The government will reimburse the contractor only for the actual price paid for those supplies and services that are expressly identified as pass-through reimbursable items by this contract. "Actual price" paid by the contractor for such supplies and services, includes tax paid, if any, and reduced by any and all credits and rebates, whether accrued or realized, associated with the supplies and services provided. "Actual price" does not include material handling charges, overhead, general and administrative costs, profit, or any other indirect cost that is in any way associated with the contractor's purchase or provision of such supplies and services. The parties expressly agree that the offered and accepted daily rate includes all costs incurred or paid by the contractor, including but not limited to material handling charges, overhead, general and administrative costs, or profit, that are in any way associated with the contractor's purchase or provision of such supplies and services.

    (b) To be eligible to receive reimbursement for services and supplies identified in this contract as pass-through reimbursable items and obtained in support of this contract, the contractor must obtain at least three quotes for each transaction in excess of $3,000 to ensure that adequate price competition was sought or the contractor must provide an acceptable justification as to why it was impracticable to do so. In the case of fuel purchases, unless directed otherwise by the Contracting Officer, the contractor shall provide the documentation listed in subparagraphs (i) through (iii) below to the Contracting Officer for approval prior to purchasing fuel. For purchases of services and supplies other than fuel, the contractor need provide the aforementioned documentation only when requested by the Contracting Officer. The contractor shall maintain documentation of all pass-through reimbursable purchases until three years after the contract is completed and shall provide access to and copies of such documentation when requested by the Contracting Officer.

        (i) A description of the supplies or services to be subcontracted.
        (ii) Identification of the proposed subcontractor and price.

(iii) Suppliers contacted and price quotes. Include other pertinent data such as price lists used if suppliers were not contacted and information regarding the selection if other than price-related factors were considered.

(c) The contractor shall maintain the above listed documentation for three years after the contract performance is completed. Contractor shall provide access to and copies of the documentation when requested by the Contracting Officer.

(d) The Contracting Officer may reduce the pass-through reimbursement by any amount above that which the Contracting Officer finds, in his/her sole discretion, is greater than that which is fair and reasonable for the supplies or services provided, giving due consideration to the facts and circumstances prevailing at the time that the Contractor procured the supplies and services. Disputes as to the amount by which any pass-through reimbursement is reduced shall be resolved in accordance with the "Disputes" section of the contract. It shall be the contractor's burden to demonstrate that the price it paid for pass-through reimbursable supplies and services was fair and reasonable.

(e) When the contractor expects total funding expended for pass-through reimbursable items to reach 85 percent of the total funds available on each Pass-Through Reimbursable Supplies and Services CLIN, the Contractor shall notify the Contracting Officer and the COR and any other government official identified by the Contracting Officer. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the schedule. The contractor shall not exceed or incur costs that exceed the amount of funding stated on each Pass-Through Reimbursable Supplies and Services CLIN at the time a pass-through reimbursable item is ordered.

(f) The government is not obligated to reimburse the contractor for otherwise pass-through reimbursable supplies and services in excess of the funded amount stated in the Schedule under each Pass-Through Reimbursable CLIN.

(g) The contractor is not obligated to continue performance of any pass-through reimbursable work under this contract or otherwise incur costs for pass-through reimbursable supplies or services in excess of the funded amount stated in the Schedule under each Pass-Through Reimbursable CLIN unless the Contracting Officer notifies the contractor that the funded amount stated in the schedule under the applicable Pass-Through Reimbursable CLIN has been increased. Notification shall be in writing. In the event notification is made orally, such notification shall be followed up in writing within two working days.

(h) No notice, communication, or representation from any person other than the Contracting Officer shall affect the government's obligation to reimburse the contractor.

(i) Change orders shall not be considered an authorization to exceed the funded amount stated in the schedule under the Pass-Through Reimbursable CLIN unless they contain a statement expressly increasing the funded amount of the Pass-Through Reimbursable CLIN by a sufficient amount to cover the change order.

31. **FUEL**

(a) **Delivery Bunkers.** Upon delivery of the vessel, the owner shall present to the Contracting Officer a statement certified by the owner or its authorized agent showing the amount and grade of fuel on board at the time of delivery with such additional verification as the Contracting Officer may require. The charterer shall pay for the on-hire bunker survey if performed by an independent surveyor and required by the Contracting Officer. The vessel's fuel cost will be reconciled at the end of the charter for charters less than 45 days or when it is anticipated that the vessel will not need to bunker during the time of charter.

(b) **Provision of Fuel.** The charterer shall ordinarily supply or cause to be supplied any or all of the DFM (F76) grade fuels required by the vessel during the period of this Charter. For charters six months or more, the government shall be responsible for any fuel testing. For charters less than six months, the owner shall be responsible for any fuel testing. Testing laboratory confirmation of compatibility and specifications of newly on-board delivered fuel shall constitute acceptance by owner. The vessel shall not be off-hire in the event of delay resulting from the supply of fuel found to be off specification, unless for want of due

diligence by owner. If the owner loads such fuel on the vessel at his own expense, the charterer shall reimburse the owner the reasonable expenses of such loading.

(c) **Owner's Purchase of Fuel.** The owner shall, if directed by the charterer, purchase fuel for the vessel, in which case the charterer shall, in accordance with the Pass Through Reimbursables section of this PWS, reimburse the owner the price paid for all fuel (excluding lube oils) procured by the owner and loaded in the vessel during the period of this charter. Such direction of the charterer shall be limited to individual fuel purchases and the total amount reimbursable by the charterer for purchase of fuel and any reasonable expenses paid for loading the fuel aboard the vessel(s) shall not exceed the funding obligated and available under the fuel CLIN or subCLIN at the time the fuel is purchased. Pass-through reimbursement shall be paid only upon presentation of properly certified vouchers, supporting receipts, and other documentation, which justify the charges as fair and reasonable. The owner shall in no event be reimbursed any amount in excess of the current market price of such fuel and reasonable expenses. The title to all fuel of which the owner is entitled to be pass-through reimbursed hereunder shall automatically pass to and vest in the charterer upon delivery to the owner or upon the happening of any other event by which title passes from the vendor or supplier thereof to the owner. The charterer shall be afforded all benefits of owner's contracts for its fuel requirements, including but not limited to any savings addressed in contract section titled Savings.

(d) **Off-Hire – Fuel.** If the vessel should go off-hire during the period of this charter, the owner shall present to the Contracting Officer a statement certified by it or its authorized agent showing the amount of fuel on board at the time the off-hire period commenced and the amount of fuel on board when the off-hire period ended. The charterer shall be credited or re-imbursed for the cost of the fuel consumed during the off-hire period and also reasonable expenses incurred in loading such fuel, with such costs based upon costs at the previous refueling point.

(e) **Redelivery Bunkers.** Upon redelivery of the vessel, the charterer shall ensure that the amount of fuel on board the tug is equal to the amount on board at delivery. The owner shall present to the Contracting Officer a statement certified by the owner or its authorized agent showing the amount of fuel on board at the time of redelivery. A bunker survey conducted by an independent bunker surveyor approved by the charterer shall be performed at the port of redelivery or such other place, as the charterer shall direct, at the owner's time and expense. Should the amount of fuel on board at redelivery exceed the amount of fuel on board delivery, the charterer shall reduce final charter hire or redelivery fee by the value of the excess fuel based on the DLA fuel rate in effect at the time of redelivery. The vessel's fuel cost will be reconciled at the end of the charter for charters less than 45 days or when it is anticipated that the vessel will not need to bunker during the time of charter.

(f) **Reasonable Expenses.** The term "reasonable expenses" as used in this paragraph, shall mean all reasonable direct expenses paid, excluding crew overtime, which are necessarily incurred in loading said fuel on board the vessel such as: expenses incurred at tanker terminal; loading fuel from lighters, barges, or other craft used as lighters, including lighter age, lighter demurrage, or detention incurred; shifting lighters for the convenience of the vessel; handling lighter lines; and such similar expenses which the charterer shall find were necessary to pay for the loading of fuel on the vessel(s) during the period of this charter.

(g) **Substitute Tug Fuel.** If the charterer accepts a substitute vessel, in accordance with the Substitution of Tugs section of this PART, any fuel consumed by the substitute tug in excess of the fuel that would have been consumed by the tug for which substitution is made shall be borne by the owner. Excess fuel consumption shall be determined by comparing the data for net barrels per day consumed (located in Attachment C, Offered Rate Sheet) for the substitute tug, and the number of excess barrels will then be priced using the current DLA rate for the grade of fuel consumed. Then the excess price per barrel will be multiplied by the number of days of the substitution. No credit shall be granted to the owner if the substitute vessel is more fuel-efficient.

32. **EXPENSES FOR CHARTER.** Except as otherwise provided herein, the charterer shall pay expenses of loading and unloading cargo and all wharfage, dockage, canal tolls, dues, taxes, and similar port charges imposed by public authority including consular charges (except those pertaining to the Master, Officers, and crew) incurred by the

vessel in ports visited pursuant to charterer's direction. Agency fees, provided not incurred for the convenience of the vessel or owner shall also be for charterer's account. The charterer shall pay all pilotage charged to the vessel; however, in no case shall the Charterer reimburse the owner for pilotage paid to the Master or other members of the crew. Surveyors or consultants as mutually agreed may be retained under this charter in order to facilitate fact-finding in respect of actual or potential claim actions or for inspection or surveys generally; the costs shall be incurred only after prior written approval from the Contracting Officer.

33. **PASSENGERS, SUPERCARGO AND GOVERNMENT REPRESENTATIVES:**

(a) **Charterer's Option**. The charterer shall have the option of carrying passengers, assigning officers and/or enlisted personnel aboard the vessel for duty purposes and appointing supercargo (supercargo as used herein is both plural and singular) as far as accommodations and inspection certification allow and in accordance with COMSC Instruction 3120.19 as amended. If supercargo remains onboard for over 24 hours, charterer shall, in accordance with the Pass through Reimbursables clause of this PWS, pay an amount of $30.00 per day, per person, covering all expenses including accommodations and victualing. Owner shall victual all other U.S. Government representatives, pilots, and Customs Officers when authorized by charterer. Charterer shall pay $7.00 per meal for all such authorized and approved victualing provided as a result thereof.

(b) **Military Personnel**. In addition to the carriage of personnel noted in subparagraph above, charterer shall have the option to assign other military personnel aboard the vessel. Such personnel are not to require victualing or berthing facilities from the vessel unless requested by the military commander aboard, in which case the owner will, in accordance with the Pass through Reimbursables clause of this PWS, be reimbursed out-of-pocket expenses not to exceed the amount per person per day set forth in the subparagraph above. Charterer will supply life floats and jackets for the use of such military personnel carried aboard the vessel during the charter period. Such items are to be removed by charterer at termination of charter.

(c) **Charterer's Liability**. The charterer shall be liable to the owner for any loss of the vessel's fittings or appurtenances or any damage to the vessel, her fittings, or appurtenances caused by the act of passengers, supercargoes, evacuees, or military personnel in the embarkation, carriage, or debarkation of passengers, supercargoes, evacuees, or military personnel to the extent such loss or damage is not payable under the vessel's insurance policies. However, the charterer shall not be liable for such damage unless written notice specifying such damage and, if obtainable, the name of the party or parties causing such damage shall have been given to the charterer or its authorized representative within a reasonable time. Payment for any such loss or damage shall be by agreement of the parties and failure to agree shall be resolved under the FAR clause 52.212-4 (d) Disputes.

34. **STRIKE CONTINGENCY PLAN.**

(a) The contractor shall provide and maintain a strike contingency plan that describes how services will be provided if there is a labor strike or any other deficiency of Master or crewmembers. The plan must be practicable and must clearly state the means and method for vessel manning during a strike or labor action and for providing services in the face of disruptive measures typical of a strike situation. Award of the contract shall indicate the Contracting Officer's approval of the plan, whose approval shall not be unreasonably withheld.

(b) The contractor shall update the plan as necessary but no less frequently as yearly and not later than 30 days before the last day for the exercise of each option to extend contract term. Exercise of an option to extend the term of the contract shall indicate the Contracting Officer's approval of the updated plan, whose approval shall not be unreasonably withheld.

35. **VESSEL CASUALTY PLAN.**

(a) The contractor shall provide and maintain a vessel casualty plan that describes how services will be continued if there is a casualty to the vessel or to a system that makes the vessel inoperable or incapable of safely providing a required service. The plan must be practicable and must clearly state the means and method for timely acquisition and deployment of a substitute vessel in the event of a vessel casualty.

Award of the contract shall indicate the Contracting Officer's approval of the plan, whose approval shall not be unreasonably withheld.

(b) The contractor shall update the plan as necessary but no less frequently as yearly and not later than 30 days before the last day for the exercise of each option to extend contract term. Exercise of an option to extend the term of the contract shall indicate the Contracting Officer's approval of the updated plan, whose approval shall not be unreasonably withheld.

36. **EMERGENCY SITUATION TRAINING PLAN.** No more than 30 days prior to delivery, the contractor shall submit a proposed training plan to meet the requirements of the Emergency Situation and Training clause, if incorporated. A final plan shall be submitted no later than 30 days after receipt of the government comments on the proposed plan.

37. **FUEL REPORTS.** Monthly, no later than the fifth working day of each month, submit a written report to the Contracting Officer and Program Office that states the amount of fuel consumed by each tug during the preceding month. In addition, if fuel was purchased from a commercial source as a pass-through reimbursable item under this charter party contract, with respect to each tug, separately state the total amount and the price-per-gallon paid for each time fuel was purchased.

38. **INCIDENT REPORTS.** In all instances in which any vessel being handled by owner's vessel(s) sustains damage or is involved in any incident resulting in damage to vessels or property, or in bodily injury or death, the owner shall secure a report from the Vessel Master or Officer acting as pilot, and from any licensed pilot aboard the vessel being handled. The owner shall verbally notify the Contracting Officer and/or the Program Office identified in this part within four hours and submit a written report to the Contracting Officer within twenty-four hours following said incident, reporting the facts, listing deaths, reporting the extent of damages to property and any bodily injuries, and listing recommendations to prevent recurrence. If individuals named below cannot be reached, the owner shall notify the MSC "24/7" Watch Officer who can alert contracting and operational personnel, and pass on verbal reports.

39. **COMPLIANCE.** All vessels shall be compliant with all applicable Federal and state laws and regulations and in particular, with all applicable U.S. Coast Guard regulations for tug vessels and their operation.

40. **POINTS OF CONTACT.**

CONTRACTING QUESTIONS:

a. Contracting Officer, Stephanie Ricker, COMSC N103B 564-226-4357
b. Contract Specialist, Ashley M. Smith , COMSC N103B 564-226-7556

(End of PART I)

PART II

FAR 52.212-4 CONTRACT TERMS AND CONDITIONS - COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DOW DEVIATION 01 FEB 26) (tailored pursuant to FAR 12.205(b))

1. In accordance with FAR 12.205(b)(1)(ii), the specified paragraphs (identified by title) are tailored for this Contract. The tailored paragraphs, below, replace the corresponding paragraphs in FAR 52.212-4.

(a) **DEFINITIONS (TAILORED).** FAR Clause 52.202-1, Definitions, is incorporated herein by reference. Additional definitions are provided in Part III (u), below.

(b) **INSPECTION/ACCEPTANCE (Tailored).**

(1) The tug(s) and associated equipment shall, at the charterer's discretion, be subject to the charterer's inspection as to suitability of the required service prior to delivery (hereinafter, "delivery inspection") and at any subsequent time during the term of this contract to determine continued suitability for the required service, including but not limited to a determination as to whether the material condition of the tug(s) and/or associated equipment might prevent or impair effective operation during the basic and any exercised optional periods of this contract.

(2) Should actual performance or readiness condition of the tug(s) or associated equipment fail to fully comply with one or more warranty, expressed or implied, or fail to fully comply with any other contract specification or requirement not due to the fault of the charterer, the hire may be equitably decreased or the tug(s) may be placed off-hire at charterer's sole discretion.

(3) This contract may be terminated in whole or in part at no cost to the charterer upon contractor's failure to correct any discrepancy in the condition of the tug(s) or associated equipment, which discrepancy prevents or materially impairs the performance of any required service, within a reasonable time after receipt of notice of such discrepancy.

(4) The remedies provided by this paragraph shall not limit any other remedy available at Law or in Equity, or otherwise provided under for this contract.

(c) **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 Federal Acquisition Regulation (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) **EXCUSABLE DELAYS (TAILORED).**

(1) Neither the contractor nor the charterer shall unless otherwise in this charter party expressly provided, be liable to the other for any delay, loss, damage or failure in performing hereunder arising out of or resulting from an occurrence such as, acts of God; acts of the public enemy, pirates, or assailing thieves; arrest or restraint of princes, rulers, or peoples; seizure under legal process provided bond is

promptly furnished to release the tug; flood; fire; blockade; riot, insurrection, or civil commotion; earthquake; storm; lightning; epidemic; or explosion.

(2) The tug shall have the liberty to sail with or without pilots, to tow and to be towed, to assist vessels in distress, and to deviate for the purpose of saving life or property, or to go into dry dock or into ways with or without cargo, passengers or other personnel, as applicable, onboard.

(3) *Notification*. The contractor shall make written notification to the Contracting Officer of any delay as soon as possible after commencement of the delay. The notification shall state the full particulars giving rise to the delay and all the surrounding circumstances in connection to it. The notification shall also state the plan for remedying the delay as soon as possible. Upon cessation of the delay, the contractor shall immediately notify the contracting officer in writing of the cessation.

(4) *Reservation*. The exceptions identified in subparagraph (1) above shall not be such as to affect the contractor's warranties respecting the condition of the tug nor the contractor's obligations respecting the services specified.

(g) **INVOICE.** The Government will handle invoices according to the Prompt Payment Act (31 U.S.C. 3903) and 5 CFR part 1315. The Contractor shall submit invoices to the address designated in the contract to receive invoices. An invoice must include the information required by 5 CFR part 1315.9(b).

(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. *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 that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

4. *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 line item or subline item, if applicable;

      (D) Contractor point of contact; and

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

5. *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 41 U.S.C. 7109, 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 as fixed by the Secretary until the amount is paid.

   ii. The 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 FAR part 33 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 by the Contracting Officer (see FAR part 32).

   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 termination for cause.

   vi. The 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. The interest charge made under this clause may be reduced under the procedures for interest credits prescribed in FAR part 32 in effect on the date of this contract.

6. *(Added)* All invoices' shall include supporting, documentation supporting in at a minimum include:

   i. Provide conversion rate of foreign currency to US dollar on the last date of services rendered (copy of online currency conversion website).

   ii. For port expense invoices provide cover sheet to supporting documentation that states only those services for charterer's account in the foreign currency and conversion to US dollar on the last date of services rendered.

   iii. Limit one port visit per invoice submission, multiple port visit invoices will be rejected.

iv. For any port expense presented in a foreign language, the following conditions must be satisfied to be considered for Government reimbursement:

(A) At a minimum, all port charges for which reimbursement is sought must be translated into English. In lieu of direct translation on the invoice, an itemized list of the charges in English is acceptable. This list must clearly identify and cross-reference with supporting documentation for each charge.

(B) All invoices and accompanying supporting documents must be clear, legible, and easy to understand. Any invoice or supporting document that is not readily comprehensible will be rejected.

(j) **RISK OF LOSS. (TAILORED).** All costs associated with the following shall be at contractors expense when caused by contractor's negligence; wrongful act; omission by contractor or its agents, servants, employees, or subcontractors; or any unseaworthiness, unfitness, or breakdown of the tug or gear/equipment furnished by contractor:

(1) Injury or death of Master or crew of the tug, or of Captain, Officers, or crew of the tow;
(2) Injury or death of any other person aboard the tug or tow;
(3) Loss or damage of whatsoever nature sustained by the tug or tow, or any property aboard the tug or tow;
(4) Loss or damage of whatsoever nature caused to or suffered by third parties or their property by reason of contact with the tug or tow, or by any obstruction created by the presence of the tug or tow;
(5) Any liability in respect to wreck removal for the tug or tow, or in respect to the expense of moving or lightening or buoying the tug or tow, or in respect to preventing or abating pollution originating from the tug;

All costs associated with the above contractor acts and resulting injuries shall be at contractor's expense without recourse against the charterer, whether injury is caused during preparation for or during the performance of services under this charter party.

(k) **TAXES. (TAILORED)** The contract price includes all applicable Federal, State, and local taxes and duties.

(l) **TERMINATION FOR THE GOVERNMENT'S CONVENIENCE.** 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 contract cost 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.

(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) Contractor warrants that the tug(s) shall be in full conformity with the requirements of this charter party contract from the time of delivery and thereafter. Should any specification of the tug(s) offered and accepted by award of the contract be in excess of a specification stated in the solicitation or elsewhere in this contract, the offered and accepted specification shall prevail over the required specification and the contractor warrants full conformity with the specification as offered and accepted.

(2) The contractor warrants that the tug(s) 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 tug(s) will be ordered hereunder. The tug(s) shall additionally operate in compliance with the International Maritime Dangerous Goods Code.

(3) 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 and promulgated pursuant to the U.S. Federal Water Pollution Control Act, as amended, and/or the Oil Pollution Act of 1990.

(4) *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 to safely and effectively operate the tug(s) and all associated equipment.

(p) **[RESERVED]**

(q) **COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS. T**he 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. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity..

(r) **ORDER OF PRECEDENCE (Tailored).** Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) The Schedule of Supplies/Services; (2) The Assignment, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) PART VI; (4) Addenda to this solicitation or contract, including any license agreements for computer software; (5) Solicitation provisions if this is a solicitation; (6) Other paragraphs of this clause; (7) The Standard Form 1449; (8) Other documents, exhibits, and attachments; and (9) Section 1 of PART I Performance Work Statement.

(p) **UNAUTHORIZED OBLIGATIONS.**

1. Except as stated in paragraph (s)(2) of this clause, when any supply or service acquired under this contract is subject to any End User 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. Neither 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 (s)(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.

(q) **COMPTROLLER GENERAL EXAMINATION OF RECORD.** This paragraph applies if this contract was awarded using other than sealed bid procedures and is in excess of the simplified acquisition threshold on the date of award of this contract.

1. The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

2. The Contractor shall make available at its offices, at all reasonable times, the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR part 4, longer period required by statute, or periods specified in other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

3. As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This clause does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(r) **INCORPORATION BY REFERENCE.** The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of PART II)

PART III

TUGTIME TERMS AND CONDITIONS (Addendum to FAR 52.212-4)

(a) **ALTERATIONS.**

(1) The charterer shall be at liberty to make any additional alterations it may require beyond what is on board at the commencement of the charter and to install any equipment or defensive armament (including demagnetization by installed equipment or other process, e.g., degaussing, wiping, or deperming), to install any additional gear or equipment for loading, carrying or discharging cargoes, and to repaint the vessel. Such work shall be done at the charterer's expense and on its time and shall not be such as to be in contravention of any applicable law of the United States or regulation made pursuant thereto.

(2) Such equipment, armament, materials, and gear so fitted are to be considered "Government Property" under the terms of FAR clause 52.245-1, incorporated by reference. The charterer shall, during the period of the charter, remove the same together with any alterations and additions thereto at its expense and time and shall restore the vessel to her condition and color prior to such changes, ordinary wear and tear excepted. The government shall have the right to abandon in place any alteration or government furnished property, unless the Contracting Officer is notified in writing within 30 days of completion of any alteration that the contractor requests such restoration or removal.

(b) **BROKER.** The broker of this charter, if any, shall be the party identified in the offer. Brokers must obtain a power of attorney executed by the vessel owners prior to submitting offers under their own signatures, signing representations and certifications or executing finalized contracts and must submit same to government with the finalized contract. Any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this charter shall be for the owner's account.

(c) **NO COST CANCELLATION OF CONTRACT.** The government shall have the right to cancel the contract at no cost upon 30-days written notice by the Contracting Officer in any option period.

(d) **CHARTER NOT A DEMISE.** Nothing herein contained shall be construed as creating a demise of the vessel to the charterer, the owner under this charter retaining complete and exclusive possession and control of the vessel and her navigation.

(e) **INVOICE ADDRESS.** The contractor shall submit an original invoice and one copy (or electronic invoice, if authorized) to the following address: Military Sealift Command, Payment Certification Code N83, 471 East C Street, SP-64, Norfolk, VA 23511.

(f) **LAWS GOVERNING.** The laws of the United States shall govern this contract.

(g) **LIMITATIONS.** The owner shall have the benefit of all limitations of and exemptions from liability accorded to the owner or chartered owner of the vessel by any statute or rule of law for the time being in force except to the extent that contract terms entitle the government to compensation from the contractor for the contractor's failure to perform the requirements and obligations of this charter or such statute or rule of law limiting the contractor's liability is subordinate to any statutorily mandated provision of this charter by operation of law. Nothing in this charter party shall operate to limit or deprive the owner of any statutory exceptions or limitation of liability on the theory of personal contract or otherwise.

(h) **NEGLIGENCE OF PILOTS.** The government shall not be held responsible, liable, or accountable for: losses sustained by the contractor, vessel(s) being assisted by the contractor’s tug(s), or other vessels damaged through the negligence of pilots even if the government engages the pilots.

(i) **PORTS/PLACES.** The charterer shall not be deemed to warrant the safety of any berth or place and shall not be liable or accountable for any loss, damage, injury, or delay resulting from any unsafe condition at any berth or place unless caused by charterer's failure to exercise due diligence.

(j) **OWNER'S OBLIGATION.** The owner shall, unless otherwise provided herein, provide and pay for all provisions; deck, engine room, and galley stores and fresh water; insurance on the vessel; wages of, transportation of, and services for Master, Officers, and crew and consular fees pertaining to them in accordance with the section Port Charges and Expenses. Owner will be responsible for all port charges associated with the foregoing.

(k) **PORT CHARGES AND EXPENSES.**

(1) **Expenses for Charterer.** Except as otherwise provided herein, charterer shall pay expenses of loading and unloading cargo and all wharfage, dockage, canal tolls, dues, taxes, and similar port charges imposed by public authority including consular charges (except those pertaining to the Master, Officers, and crew incurred by the vessel in ports visited pursuant to charterer's direction. Agency fees, provided not incurred for the convenience of the vessel or owner shall also be at charterer's expense. The charterer shall pay all pilotage charged to the vessel; however, in no case shall the charterer reimburse the owner for pilotage paid to the Master or other members of the crew. Surveyors or consultants as mutually agreed may be retained under this charter in order to facilitate fact-finding in respect of actual or potential claim actions or for inspections or surveys generally; the costs shall be incurred only after prior written approval from the Contracting Officer.

(2) **Pass-Through Reimbursement.** The owner if so required by the charterer as noted in the subparagraph above, shall pay all of the charges incurred at charterer's expense. The charterer shall thereafter reimburse the owner for such charges in accordance with the PART I section titled "Pass Through Reimbursables."

(l) **READINESS.** Readiness is a required service of the vessel. Readiness shall be defined as the ability of a vessel and associated equipment to perform the function for which designed, built, or chartered, including the ability to deploy without delays, whether or not so ordered to perform. If there is a degradation of this readiness, such that actual performance or condition of the vessel or associated equipment shows any failure to satisfy one or more of the owner's warranties or renders the vessel in less than a fully efficient state, the hire will be proportionately decreased so as to indemnify the charterer to the extent of such failure, and this charter party shall remain otherwise unaffected. Failure of the parties to agree upon the extent of the proportional decrease in hire shall be a dispute under the clause entitled "Disputes" incorporated herein by reference. Nothing in this clause shall limit the rights of the Charterer to place the vessel off-hire pursuant to PART I section titled "OFF-HIRE" of the contract.

(m) **SALVAGE.**

(1) All salvage moneys earned by the vessel during the period of this charter shall be divided equally between the owner and the charterer after deducting Master's, Officers' and crew's shares, legal expense, vessel hire lost (if any) as a result of the salvage service, value of fuel consumed (which shall be paid in full to the charterer from the salvage award), repairs of damage, and other extraordinary loss or expense sustained as a result of the salvage service. Charter hire shall continue to be paid by the charterer during deviations for the purpose of performing salvage service.

(2) When engaged in the carriage of government cargo and if requested by the charterer, the owner agrees to accept Navy salvage services. Such services may be provided using Navy personnel and resources or Navy contracted resources.

(3) In providing such services, the Navy, through the charterer, agrees to waive all claims for "pure" or "bonus" salvage. Instead, the charterer shall be entitled to the following:

(a) In those cases in which the salvage services are provided by Navy personnel and resources, the salvage claim shall be limited to a schedule of current per diem rates and allowable expenses as established by the Navy's Supervisor of Salvage. In no event shall such amount exceed a maximum claim of $25,000 per day.

(b) In those situations in which the Navy utilizes contracted resources to deliver assistance, the owner shall be liable for the actual daily rate charged to the Navy by the contractor(s).

(4) It is understood that this limited Supervisor of Salvage claim is asserted against the vessel only, is solely for the vessel's account, and does not include any amounts for the salvage of the government's cargo. Notwithstanding any other provisions of this contract, this limited Supervisor of Salvage claim IS NOT directly or by way of setoff chargeable in whole or in part to the government by way of general average or otherwise.

(n) **SAVINGS.** The owner agrees that any refunds, rebates, credits, discounts, insurance payments, or other amounts (including any interest thereon) accruing to or received by the owner under this charter shall be paid by the owner to the government to the extent that they are properly allocable to costs, expenses, or reimbursements for which the owner has been compensated by the government under the terms of this charter. The foregoing shall apply to any savings to the owner resulting from a fleet reduction, applied on a pro rata basis.

(o) **STANDARDS OF APPEARANCE.** The vessel(s) operated under this contract will operate in direct support of the U.S. Government and the Department of Defense; they must therefore meet the highest possible standards of appearance and vessel smartness.

(p) **SUBCHARTER.** The charterer shall have the right, without the prior written consent of the owner, to subcharter or agree to subcharter the vessel under any form of time or voyage charter. If charterer shall enter into any such charter, charterer shall nevertheless remain liable for the due performance of this charter. Any such subcharter shall include a provision that it is subject to the provisions of this charter party.

(q) **VESSEL OWNER'S INSURANCE.**

(1) During the full period of this Charter Party, Contractor shall maintain marine insurance coverage on the vessel, including:

i. Hull and Machinery,
ii. Protection and Indemnity (P&I) (including pollution liability),
iii. War Risk Hull and Machinery,
iv. War Risk Protection and Indemnity (P&I), and
v. Second Seaman's War Risk. (the principal sum of which shall be $1,000,000.00 per Master, Officer, or crew member (this is also the loss-of-life benefit)).

Except as otherwise expressly provided in Section (q)(3) below or as expressly provided in the section entitled "War" (r), all expenses for such insurance coverage (including but not limited to premiums, additional premiums, calls, commissions, overspill claims, advancements, assessments, deductibles, and all other insurance costs regardless of Charterer or Contractor fault, neglect, action or inaction, or cause of claim or cost whatsoever) shall be for Contractor's account and shall be deemed to be included in the hire payable under this Charter Party. Contractor shall make insurance claims under applicable policies for all damages, injuries, or claims arising from or related to this Charter when directed by Charterer regardless of Charterer's fault, neglect, action, inaction, or breach of clauses, obligations or warranties (express, implied or otherwise) of this Charter Contract.

☒ 1.1.1 At least 10 calendar days prior to delivery of the vessel, Contractor shall provide the Contracting Officer copies of policies or cover notes evidencing that required coverage has been obtained and demonstrating that the coverage is consistent with the requirements of this section. Contractor's failure to provide the required policies or cover notes may be considered material breach of this Contract.

(2) Contractor agrees to indemnify and hold harmless the Charterer for all liability, costs, or expenses arising from or related to this contract and involving covered risks and losses under the terms of the insurance required in (q)(1) above. Contractor shall obtain an endorsement on all of Contractor's insurance policies listed in Section (q)(1) by which Contractor's Insurer "waives all rights of subrogation against the United States of America regardless of amount."

(3) If Vessel is sent beyond the limits of American Institute Trade Warranties under this Charter Party, the Charterer agrees to reimburse the Contractor for the actual extra cost of additional premiums and/or increased deductible levels to the extent such extra cost is occasioned by the vessel's trading beyond such limits. Contractor shall immediately notify Charterer whenever any sailing orders will send the vessel beyond such limits, shall identify to Charterer any anticipated additional cost of insurance relating thereto, and shall obtain Charterer's approval to proceed beyond such limits prior to doing so. If Contractor fails to provide the notifications required or to obtain Charterer's informed prior approval, Charterer shall not be required to reimburse the Contractor for the costs described in this paragraph. The issuance of sailing orders, by itself, does not constitute approval in advance by Charterer.

(4) All policies shall contain an endorsement stating that "in the event Insurer receives from vessel Owner any notice of cancellation or any notice of material change to the policy or its coverage, the cancellation or change shall not be effective until 30 days after written notice thereof is provided to Charterer's Contracting Officer by the Insurer (unless such change is directed by the Charterer's Contracting Officer)." Additionally, Contractor shall immediately notify Charterer of any change whatsoever in coverage.

(5) Charterer Named Additional Assured on Owner's Hull Policy, War Risk Hull Policy, and Second Seaman's War Risk Policy. The United States of America (as Charterer) shall be named as an additional assured with waiver of subrogation under the Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, and Second Seaman's War Risk policy.

☒ 5.1.1 At least 10 calendar days prior to delivery of vessel, Contractor shall provide the Contracting Officer copies of policies or cover notes evidencing that the required coverage has been obtained. Contractor's failure to provide the required policies or cover notes may be considered material breach of this contract.

(6) "Other than owner" and "as owner" limitations. If Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, or Second Seaman's War Risk policy contain(s) any provision limiting coverage under the policy only to liabilities arising as owner of the vessel, Contractor shall arrange for such limiting provision to be stricken from the policy.

(a) If Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, or Second Seaman's War Risk policy contain(s) any provision designed to limit the effect of striking "other than owner" or "as owner" provisions as required in Section (q)(6) such provisions shall also be amended to ensure Charterer is provided full benefit of the insurance for its acts as Charterer.

(7) Limitations of Coverage to U.S. Limitation of Shipowners' Liability Act (or similar) limitation amounts. If Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, and/or Second Seaman's War Risk policy contain(s) any provision(s) limiting maximum payment to Owner in any instance to the amount to which Owner is able to limit Owner's liability pursuant to the U.S. Limitation of Shipowners' Liability Act of 1851, the 1976 Convention on Limitation of Liability for Maritime Claims, or any similar law, Contractor shall arrange for such limiting language to be stricken or amended to ensure the policy or policies are not similarly limited in payment or coverage amount with respect to coverage afforded the United States of America as additional assured Charterer.

(8) P&I Insurance for Charterer's Risks or Time Charterer Protection and Indemnity (P&I) with P&I War Risk Coverage. Contractor shall obtain P&I Insurance for Charterer's Risks or a Time Charterer Protection and Indemnity policy/entry with P&I War Risk coverage for the United States of America (as Charterer) covering all risks typically covered by P&I Insurance for Charterer's Risks or Time Charterer Protection and Indemnity entries with P&I War Risk

coverages in Protection and Indemnity associations that are members of the International Group. Except as otherwise expressly provided in the section entitled "War," all expense of such policy/entry described in this section (including but not limited to premiums, additional premiums, calls, commissions, overspill claims, advancements, assessments, deductibles, and all other insurance costs regardless of Charterer or Contractor fault, neglect, action or inaction, or cause of claim or cost whatsoever) shall be for Contractor's account and shall be deemed to be included in the hire payable under this Charter Party. Contractor shall make insurance claims under the Time Charterer Protection and Indemnity policy/entry described in this section when directed by Charterer.

☒ 8.1.1 At least 10 calendar days prior to delivery of vessel, Contractor shall provide the Contracting Officer a copy of the policy. Contractor's failure to provide the required copy of the policy may be considered material breach of this Contract.

☒ 8.1.2 The Time Charterer Protection and Indemnity policy/entry with P&I War Risk coverage shall provide coverage of $500,000,000.00.

(9) Charterer shall not be obliged to declare to the insurer all ships chartered by it. Contractor will advise the insurer that the Charterer will not declare all ships chartered by it to the insurer, and shall obtain an endorsement on the policy stating, "the United States of America, as Charterer, is not required to declare to [insert insurer name] all ships chartered by it."

(10) Contractor to Indemnify. If Contractor fails to name the United States as additional assured with waiver of subrogation on Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, or Second Seaman's War Risk policy as required by Section (q)(5); or fails to obtain for the United States the P&I Insurance for Charterer's Risks or Time Charterer P&I policy/entry with War Risks coverage required by Section (q)(8); the Contractor shall indemnify and hold harmless the Charterer for all liability, costs, or expenses involving covered risks and losses under the required insurance policies/coverage.

(11) Contractor shall not, through action or inaction (including but not limited to failing to meet all conditions of a policy, causing through action or inaction cessation of a policy, or violating any warranty of a policy), vitiate or void the coverage afforded by the Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, Second Seaman's War Risk policy, or the coverage afforded by the Time Charterer Protection and Indemnity policy/entry with P&I War Risk coverage. If any such policy is vitiated or voided by Contractor's action or inaction as described in this Section (q)(11), Contractor shall indemnify and hold harmless the Charterer for all liability, costs, or expenses which would have been covered by the policy had such policy or coverage remained in full force and effect.

(12) In the event Contractor fails to strike "other than owner" or "as owner" provisions per Section (q)(6), fails to amend supplemental limiting provisions as described in Section (q)(6)(a), or fails to amend provisions limiting payment or coverage as described in Section (q)(7), Contractor shall indemnify and hold harmless the Charterer for all liability, costs, or expenses which would have been covered by Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, and Second Seaman's War Risk policy had such provisions been stricken or amended as required

(r) **WAR.**

(1) Voyage Instructions. Operating limits of the vessel subject to this Contract shall be worldwide. If the Vessel is ordered under this Charter Party to any port, place, zone, or route involved in a state of war, warlike operations or hostilities, civil strife, or piracy (whether there be a declaration of war or not) where it might be reasonably expected to be subject to capture, seizure, arrest, or hostile act by a belligerent power (whether de facto or de jure), pirate, or terrorist, it shall be unreasonable for the Contractor not to prosecute said voyage if insurance against said risks is then available commercially or under a Government program, or if the Government offers the Contractor indemnification against said risks pursuant to Public Law 85-804 (72 Stat. 972, August 28, 1958).

(2) The Contractor shall immediately notify the Charterer: (i) whenever any sailing orders will result in the vessel subject to this Contract being sent beyond the limits of the War Risk Trading Warranties of insurance policies required under this contract (to include entry into a war risk exclusion zone or when the vessel will enter, sail for, or deviate towards the territorial waters of any of the Countries or places or any other waters described in the Lloyd's Joint War Committee's current Hull War, Strikes, Terrorism and Related Perils Listed Areas); (ii) if there are any changes to the War Risk Trading Warranties of insurance policies required under this contract (including changes to the exclusion zones or the Hull War, Strikes, Terrorism and Related Perils Listed Areas) or changes to War Risk premiums, charges, or deductibles; or (iii) whenever additional premium charges or costs will be incurred as a direct result of compliance with any sailing orders issued by the Charterer under this Contract. The Contractor shall ensure that the insurers provide it relevant information in a timely manner. If the Contractor has given this required notice to the Charterer, the Charterer will reimburse the Contractor for the increase in costs (if any) of insurance premiums, charges, or deductibles which arise from the vessel sailing beyond the applicable War Risk Trading Warranties (including changes to the war risk exclusion zones) when entry into any exclusion zone or Hull War, Strikes, Terrorism and Related Perils Listed Areas under such insurance has been approved in advance by the Charterer. The issuance of sailing orders, by itself, does not constitute approval in advance by the Charterer. The Charterer may give the Contractor notice and instructions concerning suspension of commercial War Risk insurance coverage and substitution of Government indemnity or Government War Risk insurance as detailed in the section entitled "Government War Risk Insurance/Indemnity" below.

(3) Additional Wage Costs. The Charterer shall reimburse Contractor for the cost of provable additional master and crew wages (including all additional bonuses and payments required) to the extent that such additional costs arise directly from exposure of the vessel, and/or vessel's master and crew, to the risks described in the paragraph entitled "Voyage Instructions" above. However, any of said wages or payments shall not exceed in amount that which would be payable, under applicable laws and regulations, to U.S. civil service mariners in the employ of the Military Sealift Command in a similar port, place, zone, or route. Contractor shall notify Charterer of all anticipated additional wage costs prior to entering any location which would trigger such additional costs; and no such costs shall be reimbursable unless Charterer, after notification of such costs, provides approval to enter such location.

(4) Government War Risk Insurance/Indemnity - General. Upon receipt of notice and instructions from the Contracting Officer, as specified in the last sentence of Section r-1.2 of the section entitled "War (r)" above, concerning suspension of commercial War Risk insurance coverage and substitution of Government indemnity or Government War Risk insurance, the Contractor shall, as soon as practicable, contact its insurance brokers or underwriters and arrange for the suspension of its commercial War Risk insurance upon entry of the vessel into, or extension of stay of the vessel in any area(s) excluded by the War Risk Trading Warranties, or when the vessel will enter, sail for, or deviate towards the territorial waters of any of the Countries or places, or any other waters described in the Lloyd's Joint War Committee's current Hull War, Strikes, Terrorism and Related Perils Listed Areas, as the case may be, subject to resumption of its commercial War Risk insurance upon exiting such area(s). In such instances, the Contractor shall accept the Government's indemnity or Government War Risk insurance, whichever is applicable, in lieu of such commercial War Risk insurance. The Contractor shall ensure that the suspension of its commercial War Risk coverage is coincident with the time that any Government indemnity or Government War Risk insurance becomes effective, and shall likewise ensure that its commercial War Risk insurance is resumed at the time when any Government indemnity or Government War Risk insurance becomes ineffective. The Contractor shall retain the same risks, such as deductibles (if any), that it has under its commercial insurance.

(5) Government War Risk Insurance. Under the authority of 46 U.S.C. § 53905, the United States Maritime Administration (MARAD), at the request of Commander, Military Sealift Command, may furnish the following war risk insurance coverage, which will be effective during the vessel's transit under this Contract in areas which are in war risk exclusion zones, or waters described in the current Lloyd's Joint War Committee Hull War, Strikes, Terrorism and Related Perils Listed Areas, or otherwise excluded under the Contractor's commercial marine War Risk trading warranties, and which are designated by notice from the Contracting Officer to the Contractor:

(a) War Risk Hull Coverage, insured at the hull value stated in vessel's current commercial hull and increased-value policies effective on Charter Party date, a copy of which current hull policies shall be furnished to Charterer;

(b) War Risk Protection and Indemnity coverage, insured at a value of either (i) 150% of the hull value stated in Vessel's current commercial hull policy effective on Charter Party date or (ii) $50,000,000.00, whichever is greater but in no event exceeding that amount of commercial P&I cover which was in effect for the Vessel on Charter Party date;

(c) War Risk Second Seaman's coverage, the principal sum of which shall be $1,000,000 per Master, Officer, or crew member (this is also the loss-of-life benefit);

(d) War Risk Loss-of-Hire coverage, if a commercial loss-of-hire policy was in effect on the vessel on Charter Party date. The sum insured by this policy, including the amount of lost time that is covered, will be equivalent to the levels insured by the vessel's commercial policy. However, the amount insured by this policy will in no event exceed the hire rate(s) (that would have been in effect under this Charter Party during the period of time that the vessel was off-hire because of a covered War Risk), over a maximum duration of 90 days lost. This maximum amount will be further subject to a deductible equivalent to that in place under the Vessel's commercial policy.

(6) Government Indemnity. Under the authority of Public Law 85-804 (72 Stat. 972, August 28, 1958) and Executive Order 10789, as amended by Executive Order 11610, the Secretary of Defense or the Secretary of the Navy may authorize the Contracting Officer to indemnify the Owner against loss from risks that would be covered by MARAD war risk coverage as set forth in the paragraph entitled "Government War Risk Insurance" directly above.

(s) **CONTRACTOR'S NOTICE REGARDING LITIGATION.** The contractor shall provide the Contracting Officer with immediate notice of any legal action, or claim against the government, the vessel, the contractor, or the contractor's underwriters that arises from or is related to this contract. The contractor shall also provide the Contracting Officer with immediate notice of any legal action brought by the contractor that arises from or is related to this contract.

(t) **WAIVER OF CLAIMS.** All requests for equitable adjustment to the contract price and any other claims whatsoever for monies due under this contract must be submitted to the Contracting Officer pursuant to the clause entitled "Disputes" within six (6) months of the redelivery of the vessel. All requests for equitable adjustment and any other claims whatsoever for monies due under this contract that are not submitted within the six (6) month limit, shall deemed to have been waived by the Owner.

(u) **GENERAL DEFINITIONS.**

(1) **"Assisting"** - Movement of a tow, which is making use of, or which has available for use, her own propulsion.
(2) **"Associated Equipment"** - Construed to include all Contractor-furnished or owned equipment necessary for performance under this Contract.
(3) **Charter Hire** – Daily rate paid for use of the vessel during the charter; interchangeable with Hire Rate and Per Diem.
(4) **Charterer** - The United States of America.
(5) **Charter Party** - This document when executed; interchangeable with "Contract" and "Charter".
(6) **"Crew"** – Members of the Vessel(s) identified in rate schedule.
(7) **"Dry-docking"** - For purposes of this Contract dry-docking shall mean any removal of the vessel from the water for any purpose.
(8) **"Line-handling"** - Movement or transportation of the tow's lines ashore by Tug's crew.
(9) **"Master"** – Master of the vessel identified in the rate schedule.
(10) **"Owner"** - That entity exercising commercial control of the Vessel(s) identified in the Rate Schedule; interchangeable with "contractor" and "offeror" and to include disponent owners and all the

shipowner's and disponent owner's agents, employees, independent contractors, Master, Officers, and crew.

(11) **"Owner's Representative"** - See "Representative", below.

(12) **"Place"** - Any berth, dock, anchorage, submarine line, alongside any Vessel or lighter or any other place whatsoever to which Charterer is entitled to direct the Vessel hereunder.

(13) **"Representative"** - Foreman, superintendent, dispatcher, supervisor, or manager employed and designated by Owner to respond to Government requests for service under this Contract.

(14) **"Straight Time"** – As shown in PWS.

(15) **"Vessel/Vessels"** - Those Vessels identified in the Rate Schedule and any other Vessel(s) accepted by the Government for use under this Contract (the word "Vessel" as used in this Contract is both plural and singular).

(End of PART III)

PART IV
Time Charter Common Terms and Conditions
(Addendum to FAR 52.212-4)

1. **STAFFING AND COMMUNICATIONS.** Contractor shall provide adequate staff and communications to respond promptly to Government's requests for services under this contract on a 24-hour per day basis.

2. **SEXUAL ASSAULT AND/OR SEXUAL HARASSMENT.** The contractor shall develop and implement a policy for the prevention of sexual assault and/or sexual harassment. The contractor shall submit this policy statement to the COR and Contracting Officer within sixty (60) calendar days after contract award for approval and retention. The sexual assault and sexual harassment policy shall be posted onboard the ship in a public area. All contractor employees and crewmembers shall fully cooperate with any sexual assault and/or sexual harassment investigations that are directed by MSC.

(End of PART IV)

PART V

(RESERVED)

(End of PART V)

PART VI
FAR AND DFARS CLAUSES INCORPORATED BY REFERENCE

(a) FAR 52.252-2 Clauses Incorporated by Reference

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52
https://www.acq.osd.mil/dpap/dars/dfars_far_overhaul_class_deviations.html

(End of clause)

(b) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which, if checked ("X"), are incorporated in this Contract by reference. The applicable clauses are those in effect on the date of contract award.

☒	52.203-3	Gratuities
☒	52.203-6	Restriction on Subcontractor Sales to the Government, Alternate I
☒	52.203-13	Contractor Code of Business Ethics and Conduct
☒	52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements
☐	52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards
☒	52.204-13	System for Award Management—Maintenance
☐	52.204-14	Service Contract Reporting Requirements
☒	52.204-19	Incorporation by Reference of Representations and Certifications
☒	52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded
☒	52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters
☒	52.209-10	Prohibition on Contracting with Inverted Domestic Corporations
☒	52.211-15	Defense Priority and Allocation Requirements
☒	52.217-8	Option to Extend Services
☒	52.217-9	Option to Extend the Term of the Contract
☐	52.219-3	Notice of HUBZone Set-Aside or Sole-Source Award
☐	52.219-6	Notice of Total Small Business Set-Aside
☐	52.219-7	Notice of Partial Small Business Set-Aside
☒	52.219-8	Utilization of Small Business Concerns
☒	52.219-9	Small Business Subcontracting Plan,
☒	52.219-9	Small Business Subcontracting Plan, Alternate II
☐	52.219-14	Limitations on Subcontracting
☒	52.219-16	Liquidated Damages—Subcontracting Plan
☐	52.219-27	Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program
☒	52.219-28	Postaward Small Business Program Representation
☐	52.219-29	Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns
☐	52.219-30	Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program
☒	52.222-3	Convict Labor
☐	52.222-19	Child Labor—Cooperation with Authorities and Remedies
☒	52.222-35	Equal Opportunity for Veterans
☒	52.222-36	Equal Opportunity for Workers with Disabilities
☒	52.222-37	Employment Reports on Veterans
☒	52.222-40	Notification of Employee Rights Under the National Labor Relations Act

☒	52.222-41	Service Contracts Labor Standards
☒	52.222-42	Statement of Equivalent Rates for Federal Hires
☒	52.222-43	Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts)
☐	52.222-44	Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment
☒	52.222-50	Combating Trafficking in Persons
☐	52.222-50	Combating Trafficking in Persons, Alternate I
☐	52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements
☒	52.222-54	Employment Eligibility Verification
☒	52.222-55	Minimum Wages for Contractor Workers Under Executive Order 14026
☒	52.222-62	Paid Sick Leave Under Executive Order 13706
☒	52.222-90	Addressing DEI Discrimination by Federal Contractors
☒	52.223-3	Hazardous Material Identification and Safety Data
☐	52.223-9	Estimate of Percentage of Recovered Material Content for EPA–Designated Items
☒	52.223-11	Ozone-Depleting Substances
☐	52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners
☒	52.223-23	Sustainable Products
☒	52.224-3	Privacy Training
☐	52.225-5	Trade Agreements
☐	52.225-19	Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States
☐	52.225-26	Contractors Performing Private Security Functions Outside the United States
☒	52.226-8	Encouraging Contractor Policies to Ban Text Messaging While Driving
☐	52.228-3	Worker's Compensation Insurance (Defense Base Act)
☐	52.229-12	Tax on Certain Foreign Procurements
☒	52.232-18	Availability of Funds
☒	52.232-23	Assignment of Claims
☐	52.232-29	Terms for Financing of Purchases of Commercial Products and Commercial Services
☐	52.232-30	Installment Payments for Commercial Products and Commercial Services
☒	52.232-33	Payment by Electronic Funds Transfer-System for Award Management
☐	52.232-34	Payment by Electronic Funds Transfer-Other than System for Award Management
☐	52.232-36	Payment by Third Party
☒	52.232-39	Unenforceability of Unauthorized Obligations
☒	52.232-40	Providing Accelerated Payments to Small Business Subcontractors
☒	52.233-3	Protest after Award
☒	52.233-4	Applicable Law for Breach of Contract Claim
☒	52.240-91	Security Prohibitions and Exclusions
☒	52.240-92	Security Requirements
☒	52.240-93	Basic Safeguarding of Covered Contractor Information Systems
☒	52.242-5	Payments to Small Business Subcontractors
☒	52.242-15	Stop-Work Order
☒	52.244-6	Subcontracts for Commercial Products and Commercial Services
☐	52.245-1	Government Property
☐	52.245-9	Use and Charges
☒	52.246-4	Inspection of Services-Fixed-Price
☒	52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels
☒	52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels, Alternate I

(c) The Contractor shall comply with the following Defense Federal Acquisition Regulation Supplement (DFARS) clauses, which, if checked ("X"), are incorporated in this Contract by reference. The applicable clauses are those in effect on the date of contract award.

☒	252.201-7000	Contracting Officer's Representative
☒	252.203-7000	Requirements Relating to Compensation of Former DoD Officials
☒	252.203-7002	Requirement to Inform Employees of Whistleblower Rights
☒	252.203-7003	Agency Office of the Inspector General
☒	252.204-7000	Disclosure of Information
☒	252.204-7003	Control of Government Personnel Work Product
☒	252.204-7004	Antiterrorism Awareness Training for Contractors
☒	252.204-7009	Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information
☒	252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting (DEVIATION 2024-O0013, REVISION 1) (MAY 2024)
☒	252.204-7014	Limitations on the Use or Disclosure of Information by Litigation Support Contractors
☒	252.204-7015	Notice of Authorized Disclosure of Information for Litigation Support
☒	252.204-7018	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services
☐	252.204-7021	Cybersecurity Maturity Model Certification Requirements
☒	252.205-7000	Provision of Information to Cooperative Agreement Holders
☒	252.209-7004	Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism
☐	252.211-7003	Item Unique Identification and Valuation
☐	252.211-7008	Use of Government-Assigned Serial Numbers
☒	252.219-7996	Small Business Subcontracting Plan (DoD Contracts)
☐	252.219-7997	Small Business Subcontracting Plan (Test Program)
☐	252.222-7002	Compliance with Local Labor Laws (Overseas)
☐	252.222-7004	Compliance with Spanish Social Security Laws and Regulations
☐	252.223-7002	Safety Precautions for Ammunition and Explosives
☐	252.223-7003	Change in Place of Performance--Ammunition and Explosives
☐	252.223-7008	Prohibition of Hexavalent Chromium
☐	252.225-7005	Identification of Expenditures in the United States
☐	252.225-7007	Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies
☒	252.225-7012	Preference for Certain Domestic Commodities
☐	252.225-7027	Restriction on Contingent Fees for Foreign Military Sales
☐	252.225-7028	Exclusionary Policies and Practices of Foreign Governments
☐	252.225-7039	Defense Contractors Performing Private Security Functions Outside the United States
☐	252.225-7040	Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States
☐	252.225-7041	Correspondence in English
☐	252.225-7048	Export-Controlled Items
☒	252.225-7056	Prohibition Regarding Business Operations with the Maduro Regime
☒	252.225-7060	Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region
☐	252.225-7062	Threat Mitigation Support to Operations (DEVIATION 2026-O0051)
☐	252.225-7963	Antiterrorism/Force Protection for Defense Contractors Outside the United States
☒	252.225-7967	Prohibition Regarding Russian Fossil Fuel Business Operations (DEVIATION 2024-O0006, REVISION 1) (FEB 2024)
☒	252.225-7972	Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems (AUG 2024) (DEVIATION 2024-O0014)

☐	252.225-7975	Additional Access to Contractor and Subcontractor Records (DEVIATION 2026-O0051) (JUN 2026)
☐	252.225-7976	Contractor Personnel Performing in Japan (DEVIATION 2018-O0019) (AUG 2018)
☐	252.225-7980	Contractor Personnel Performing in the United States Africa Command Area of Responsibility (DEVIATION 2016-O0008) (JUN 2016)
☐	252.225-7987	Requirements for Contractor Personnel Performing in the U.S. Southern Command Area of Responsibility (DEVIATION 2021-O0004) (FEB 2021)
☐	252.225-7993	Prohibition on Providing Funds to the Enemy (DEVIATION 2024-O0003) (DEC 2023)
☐	252.225-7995	Contractor Personnel Performing in the United States Central Command Area of Responsibility (DEVIATION 2017-O0004) (SEP 2017)
☒	252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns
☐	252.228-7006	Compliance with Spanish Laws and Insurance
☐	252.229-7003	Tax Exemptions (Italy)
☐	252.229-7005	Tax Exemptions (Spain)
☐	252.229-7006	Value Added Tax Exclusion (United Kingdom)
☐	252.229-7007	Verification of United States Receipt of Goods
☐	252.229-7014	Full Exemption from Two-Percent Excise Tax on Certain Foreign Procurements
☒	252.232-7003	Electronic Submission of Payment Requests and Receiving Reports
☒	252.232-7006	Wide Area WorkFlow Payment Instructions
☒	252.232-7007	Limitation of Government's Obligation
☐	252.232-7008	Assignment of Claims (Overseas)
☒	252.232-7010	Levies on Contract Payments
☒	252.232-7011	Payments in Support of Emergencies and Contingency Operations
☐	252.233-7001	Choice of Law (Overseas)
☒	252.237-7010	Prohibition on Interrogation of Detainees by Contractor Personnel
☐	252.237-7998	Training for Contractor Personnel Interacting with Detainees (DEVIATION 2026-O0023) (FEB 2026)
☒	252.237-7023	Continuation of Essential Contractor Services
☒	252.240-7997	NIST SP 800-171 DoD Assessment Requirements
☒	252.243-7002	Requests for Equitable Adjustment
☒	252.244-7999	Subcontracts for Commercial Products or Commercial Services
☐	252.245-7003	Contractor Property Management System Administration
☐	252.245-7005	Management and Reporting of Government Property
☒	252.247-7023	Transportation of Supplies by Sea
☒	252.247-7025	Reflagging or Repair Work
☒	252.247-7027	Riding Gang Member Requirements (For US Flag vessels only)

(End of PART VI)

PART VII.
FAR AND DFARS PROVISIONS INCORPORATED BY REFERENCE

(a) FAR 52.252-1 Solicitation Provisions Incorporated by Reference

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52
https://www.acq.osd.mil/dpap/dars/dfars_far_overhaul_class_deviations.html

(End of provision)

(b) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) provisions, which, if checked ("X"), are incorporated in this solicitation by reference. The applicable provisions are those in effect on the issue date of this solicitation.

☒	52.204-7	System for Award Management—Registration
☒	52.209-2	Prohibition on Contracting with Inverted Domestic Corporations-Representation
☒	52.209-5	Certification Regarding Responsibility Matters
☒	52.209-7	Information Regarding Responsibility Matters
☒	52.209-11	Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law
☒	52.211-14	Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use
☒	52.217-5	Evaluation of Options
☒	52.219-1	Small Business Program Representations
☒	52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns
☒	52.222-56	Certification Regarding Trafficking in Persons Compliance Plan
☒	52.229-11	Tax on Certain Foreign Procurements—Notice and Representation
☒	52.240-90	Security Prohibitions and Exclusions Representations and Certifications

(c) The Contractor shall comply with the following Defense Federal Acquisition Regulation Supplement (DFARS) provisions, which, if checked ("X"), are incorporated in this solicitation by reference. The applicable provisions are those in effect on the issue date of this solicitation.

☒	252.203-7005	Representation Relating to Compensation of Former DoD Officials
☒	252.204-7008	Compliance with Safeguarding Covered Defense Information Controls
☒	252.204-7016	Covered Defense Telecommunications Equipment or Services—Representation
☒	252.204-7017	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services—Representation
☒	252.204-7019	NIST SP 800-171 DoD Assessment Requirements
☒	252.204-7024	Notice on the Use of the Supplier Performance Risk System
☐	252.204-7025	Notice of Cybersecurity Maturity Model Certification Level Requirements
☒	252.204-7998	Alternate A, Annual Representations and Certifications
☒	252.215-7007	Notice of Intent to Resolicit
☒	252.215-7992	Only One Offer

☒	252.215-7994	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data
☒	252.215-7996	Notification to Offerors—Postaward Debriefings
☒	252.225-7055	Representation Regarding Business Operations with the Maduro Regime
☒	252.225-7059	Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region–Representation
☒	252.225-7966	Prohibition Regarding Russian Fossil Fuel Business Operations—Representation (Deviation 2024-O0006, Revision 1) (MAR 2024)
☒	252.225-7973	Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems—Representation (AUG 2024) (DEVIATION 2024-O0014)
☒	252.237-7024	Notice of Continuation of Essential Contractor Services
☒	252.247-7026	Evaluation Preference for Use of Domestic Shipyards — Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade

(End of PART VII)

PART VIII

Additional Contract Requirements (As Applicable) (Addendum to FAR 52.212-4)

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clauses and provisions and Defense Federal Acquisition Regulation Supplement (DFARS) clauses and provisions, which, if checked, are included in this Contract:

☒ **(1) 52.217-8 Option To Extend Services (NOV 1999)**.

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance here under shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor any time before the contract expires.

(End of clause)

☒ **(2) FAR 52.217-9 Option to Extend the Term of the Contract (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the contractor any time before the contract expires. The Government may, but is not required to, give the contractor a preliminary notice of its intent to extend any time prior to redelivery of the Vessel. The preliminary notice, if provided, does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 59 months.

(End of clause)

☒ **(3) FAR 52.222-42 Statement of Equivalent Rates for Federal Hires (MAY 2014)**

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C.5341 or 5 332.

This Statement is for Information Only: It is not a Wage Determination

Employee Class	Non-Mech Daily	Mech Daily	Daily
Master	$440.74	$497.88	
Chief Engineer			$395.30
Chief Mate	$267.24	$294.00	
2nd Mate	$238.01	$261.86	
3rd Mate	$208.82	$229.71	
1st Asnt Engineer			$272.16
2nd Asnt Engineer			$241.27
3rd Asnt Engineer			$206.23
Able Seaman			$161.98
Ordinary Seaman			$122.86

(End of clause)

☒ **(4) DFARS 252.232-7006 Wide Area Work Flow Payment Instructions (JAN 2023)**

(a) *Definitions.* As used in this clause—

"Department of Defense Activity Address Code (DoDAAC)" is a six position code that uniquely identifies a unit, activity, or organization.

"Document type" means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

"Local processing office (LPO)" is the office responsible for payment certification when payment certification is done external to the entitlement system.

"Payment request" and "receiving report" are defined in the clause at 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(b) *Electronic invoicing.* The WAWF system provides the method to electronically process vendor payment requests and receiving reports, as authorized by Defense Federal Acquisition Regulation Supplement (DFARS) 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(c) *WAWF access.* To access WAWF, the Contractor shall—

(1) Have a designated electronic business point of contact in the System for Award Management at https://www.sam.gov; and

(2) Be registered to use WAWF at https://wawf.eb.mil/ following the step-by-step procedures for self-registration available at this web site.

(d) *WAWF training.* The Contractor should follow the training instructions of the WAWF Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the "Web Based Training" link on the WAWF home page at https://wawf.eb.mil/

(e) *WAWF methods of document submission.* Document submissions may be via web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) *WAWF payment instructions.* The Contractor shall use the following information when submitting payment requests and receiving reports in WAWF for this contract or task or delivery order:

(1) *Document type.* The Contractor shall submit payment requests using the following document type(s):

(i) For cost-type line items, including labor-hour or time-and-materials, submit a cost voucher.
(ii) For fixed price line items—

(A) That require shipment of a deliverable, submit the invoice and receiving report specified by the Contracting Officer.

Not Applicable

(B) For services that do not require shipment of a deliverable, submit either the Invoice 2in1, which meets the requirements for the invoice and receiving report, or the applicable invoice and receiving report, as specified by the Contracting Officer.

Invoice 2-in-1

(iii) For customary progress payments based on costs incurred, submit a progress payment request.

(iv) For performance based payments, submit a performance based payment request.

(v) For commercial financing, submit a commercial financing request.

(2) Fast Pay requests are only permitted when Federal Acquisition Regulation (FAR) 52.213-1 is included in the contract.

[Note: The Contractor may use a WAWF "combo" document type to create some combinations of invoice and receiving report in one step.]

(3) *Document routing.* The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system.

Routing Data Table

Field Name in WAWF	*Data to be entered in WAWF*
Pay Official DoDAAC	**N50082**
Issue By DoDAAC	**N32205**
Admin DoDAAC	**N32205**
Inspect By DoDAAC	**N62387**
Ship To Code	**N62387**
Ship From Code	Leave Blank
Mark For Code	Leave Blank
Service Approver (DoDAAC)	**N62387**
Service Acceptor (DoDAAC)	**N62387**
Accept at Other DoDAAC	Leave Blank
LPO DoDAAC	**N62387**
DCAA Auditor DoDAAC	Leave Blank
Other DoDAAC(s)	Leave Blank

(4) *Payment request.* The Contractor shall ensure a payment request includes documentation appropriate to the type of payment request in accordance with the payment clause, contract financing clause, or Federal Acquisition Regulation 52.216-7, Allowable Cost and Payment, as applicable.

(5) *Receiving report.* The Contractor shall ensure a receiving report meets the requirements of DFARS Appendix F.

(g) *WAWF point of contact.*

(1) The Contractor may obtain clarification regarding invoicing in WAWF from the following contracting activity's WAWF point of contact:

Not applicable.

(2) Contact the WAWF helpdesk at 866-618-5988, if assistance is needed.

(End of clause)

☒ (5) MSC SPECIFIC WIDE AREA WORKFLOW (WAWF) INSTRUCTIONS

The information contained in this instruction is supplemental to DFARS 252.232-7006. **The information contained in the table in DFARS 252.232-7006 is for WAWF purposes only. Information included in DFARS 252.232-7006 and this WAWF instruction apply only to WAWF Invoicing and WAWF Receiving Reports. Contradictory information elsewhere in this contract, e.g. Ship to DoDAAC, shall be followed per the terms and conditions of the contract.**

When entering the invoice into WAWF, the Contractor shall fill in the DoDAAC fields or DoDAAC extensions exactly as shown in the table in DFARS 252.232-7006. Fields that should not be filled in when entering the invoice into WAWF will be indicated with the direction, "Leave Blank."

In some situations the WAWF system will pre-populate the "Pay DoDAAC," "Admin By DoDAAC" and "Issue By DoDAAC." The Contractor shall verify that those DoDAACs automatically entered by the WAWF system match the information in the table in DFARS 252.232-7006. If these DoDAACs do not match, then the Contractor shall correct the field(s).

If Receiving Reports are required, ensure that the "Inspection" and "Acceptance" defaults of "destination" for both fields are not changed in the WAWF online interface.

The CLINs on the WAWF invoice shall be entered exactly as set forth in the contract document including CLIN number (e.g. 0001), Quantity (may be adjusted for actual quantity or dollar value delivered and invoiced), and Unit Price (e.g. $1.00). The dollar amounts on each CLIN or SubCLIN on the WAWF invoice shall reflect final performance values, but in no instance can the dollar amount for each CLIN or SubCLIN exceed what is specified in the contract document. The Contractor shall bill to the lowest level, e.g., the SubCLIN level. **The Quantity and Unit of Measure fields must be filled out exactly as indicated in the CLINs and SubCLINs to reduce the possibility of the invoice being delayed or rejected during processing.**

Before closing out of an invoice session in WAWF, but after submitting the document or documents, the Contractor will be given the option to send additional email notifications by clicking on the "Send More Email Notifications" link that appears on the page. The Contractor shall click on this link and add the Technical Point of Contact's (TPOC) or Contracting Officer's Representative's (COR) email address in the first email address block and add any other additional email addresses desired in the following blocks. This additional notification to the Government is important to ensure the acceptor/receiver is aware that the invoice documents have been submitted into the WAWF system.

(End of provision)

☒ (6) FAR 52.211-14 Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use (Apr 2008).

Any contract awarded as a result of this solicitation will be ☐ DX rated order; ☒ DO rated order certified for national defense, emergency preparedness, and energy program use under the Defense Priorities and Allocations System (DPAS) (15 CFR700), and the Contractor will be required to follow all of the requirements of this regulation.

(End of provision)

(End of PART VIII)

PART IX
LIST OF ATTACHMENTS

Attachment (1)_MSC TUGTIME PROFORMA (06-2026)
(See separate attachment)

Attachment (2)_Offered Vessel Characteristic Sheet
(See separate attachment)

Attachment (3)_Crew Complement
(See separate attachment)

Attachment (4)_Offered Rates Sheet
(See separate attachment)

Attachment (5)_Technical Offer Worksheet
(See separate attachment)

Attachment (6)_Department of Labor Wage Determination
(See separate attachment)

Attachment (7)_Disclosure of Lobbying Activities (SF LLL)
(See separate attachment)

Attachment (8)_Reserved

Attachment (9)_Mission-Essential Contractor Services Plan (MECSP) Worksheet
(See separate attachment)

Attachment (10)_Strike Contingency Plan and Vessel Casualty Plan
(See separate attachment)

Attachment (11)_Request for Clarification/Question Form
(See separate attachment)

Attachment (12) _Shipyard Data Template
(See separate attachment)

(End of PART IX)

PART X

PART X. 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DOW DEVIATION 01 FEB 26) (tailored pursuant to FAR 12.205 (a))

(a) Submission of offers. (Tailored) Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. As a minimum, offers shall include—

(1) That information identified in PART X under the following titles:
- (i) BUSINESS PROPOSAL
- (ii) TECHNICAL PROPOSAL
- (iii) PRICE PROPOSAL

(2) A valid submission consists of at least a ship name, a price, and a signature; without these at a minimum, your submission will not be considered for evaluation and award.

(3) Form of Submission. Proposals/modifications must be submitted via E-mail in Adobe Acrobat (.pdf) format, and must be compatible with Adobe Acrobat Reader 8.0 or later version. Proposals/modifications must contain either a verifiable electronic signature (e.g., PKI enabled certificate), or a scanned image of the handwritten signature of the Offeror or Offeror's agent. Offerors are advised that delays in the receipt of e-mail do occur, and the Offeror is solely responsible for timely receipt of offers by the Government regardless of any problems or delays related to computer hardware or software systems including, but not limited to, servers and firewalls. An E-mail proposal that resides on a Government server, but has not appeared in the designated E-mail inbox by the due date and time for proposal submission will be considered late. Offerors are advised that the Government may be unable to receive other types of electronic files (e.g., .zip files) or files in excess of 20 megabytes. For electronic proposal/modifications, the only acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time and date set for receipt of offers is the receipt of the E-mail proposal, readable, in its entirety in the designated E-mail inbox by the due date and time for proposal submission. Any other timestamp or meta-data of the Offeror's sent e-mail shall not be construed as sufficient documentation of the Government's receipt of an e-mailed offer. It is the Offeror's responsibility to ensure the proposal has been received in the designated E-mail inbox by the due date and time.

Proposal and proposal modifications (e.g., proposal extension) shall be submitted electronically in response to this solicitation by e-mail directly to Ashley Smith ashley.m.smith357.civ@us.navy.mil and Stephanie Ricker stephanie.ricker.civ@us.navy.mil or the designated E-mail addresses and inboxes for receipt of E-mail submissions. No other electronic means of submission, used in whole or in combination with E-mail, is permitted.

(4) Offers shall not contain classified material. Any portion of an offer which the Offeror considers business sensitive should be clearly marked as such in accordance with FAR 52.215-1.

(5) A proposal shall not require extensive searching throughout the document(s) to locate and evaluate a particular item. Each offer should be written, to the greatest extent possible, on a stand-alone basis. The Government will not search through and fill-in missing information between offers, and it is the Offeror's responsibility to provide all documentation in each volume as required.

(b) Period for acceptance of offers. (Tailored) The Offeror agrees to hold the prices in its offer firm until the time of contract award, unless otherwise indicated on its offer. Offerors are reminded that expired offers will be excluded from the competition upon expiration and will not be available for subsequent revival or renewal unless the expiration occurs during a period where Final Proposal Revision are being actively sought.

(c) Late submissions, modifications, revisions, and withdrawals of offers. (Tailored)

(1) Offerors are responsible for submitting offers and any modifications or revisions to the Government office designated in the solicitation by the time specified in the solicitation.

(2) Any offer, (whether initial or revised) received after the time specified for receipt of offers is "late" and will not be considered unless the Contracting Officer determines that accepting the late offer is in the Government's best interest.

(3) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(4) Offerors may withdraw their offers by written notice to the Government received at any time before award.

(d) Contract award (not applicable to Invitation for Bids). The Government intends to evaluate offers and award a contract without discussions with Offerors. Therefore, the Offeror's initial offer should contain the Offeror's best terms. However, the Government reserves the right to conduct discussions, if necessary. The Government may reject any or all offers if such action is in the public interest, accept other than the lowest offer, and waive informalities and minor irregularities in offers received.

(e) Debriefing. If a post-award debriefing is given to requesting Offerors, the Government will disclose the following information, if applicable:

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed Offeror's offer.

(2) The overall evaluated cost or price and technical rating of the successful Offeror and the debriefed Offeror and past performance information on the debriefed Offeror.

(3) The overall ranking of all Offerors when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award.

(5) For acquisitions of commercial products, the make and model of the product to be delivered by the successful Offeror.

(6) Reasonable responses to relevant questions posed by the debriefed Offeror as to whether the agency followed source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities.

(f) Vessel Substitution. (Added) No proposed substitution will be permitted by Charterer during the procurement solicitation process after the date and time for offers has passed except when such substitution is made as part of a revised offer during a period in which the solicitation is reopened or when such substitution is made as part of a final proposal revision.

(g) Multiple offers. (Added) Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(h) Vessel Name Release. (Added) For the purpose of obtaining timely country clearance, vessel names under consideration for award may be released to partner U.S. or foreign government agencies prior to contract award.

(i) Multiple awards. (Added) The Government may accept any item or group of items of an offer, unless the Offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the Offeror specifies otherwise in the offer. As a result, Offerors submitting multiple vessels should ensure each vessel being proposed meets the PWS requirements on Part I.

(j) Questions. (Added) Potential Offerors requesting additional information or clarifications relating to this solicitation shall submit their request in writing by E-mail to Ashley Smith at ashley.m.smith357.civ@us.navy.mil and Stephanie Ricker at stephanie.ricker.civ@us.navy.mil.

Questions regarding the solicitation must be submitted no later than 1:00pm local time, 14 calendar days after the solicitation was issued; otherwise questions may not be answered prior to the solicitation closing. Offerors shall submit questions to this solicitation using the "Request for Clarification/Question" form provided as Attachment (11) to this solicitation. Each question shall be submitted on a separate form. Questions shall be submitted to the Contracting Officer and Contract Specialist identified in this solicitation.

Questions submitted not using this form, or that combine more than one question per form, may not receive a response. No telephonic responses will be provided.

(k) Service of Protest. (Added) Protests, as defined in FAR 33.101, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from the Contracting Officer. The mailing address is the same as that stated in Box 9, SF 1449. Interested parties may request an independent review of their protest as an alternative to consideration by the Contracting Officer or as an appeal of the Contracting Officer's decision on their protest. See FAR 33.103. Requests for independent review shall be addressed to:

Director, Contracts & Business Management Directorate, Code N10
Military Sealift Command
471 East C Street, Bldg. SP-64
Naval Station Norfolk,
Norfolk, VA 23511-2419 Norfolk, VA 23511-2419

MSC encourages potential protestors to discuss their concerns with the Contracting Officer prior to filing a protest. The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

Each offer shall be clearly labeled, and complete with the following parts: Business Proposal; Technical Proposal; and Price Proposal.

BUSINESS PROPOSAL. Offerors shall provide the following:

A proposal cover letter that includes:

a. The solicitation number, the name, address, and telephone number of the Offeror (and electronic address if available);
b. A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

c. The names, titles, and telephone number (and electronic addresses if available) of person(s) authorized to negotiate on the Offeror's behalf with the Government in connection with this solicitation;
d. Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office;
e. Name and E-mail address for the point of contact to be used in conjunction with the Government's web-based post-contract performance information system, Contractor Performance Assessment Reporting System (CPARS).

2. Completed Standard Form (SF) 1449. Failure to submit a signed SF 1449 will result in rejection of the offer.

3. Acknowledgment of Solicitation Amendments.

4. SCA Certification: The Offeror must certify that it will comply with the Service Contract Act and Department of Labor Wage Determination (Attachment 6) in performance of this contract, should they apply.

5. Standard Form SF-LLL, Disclosure of Lobbying Activities (Attachment 7), if applicable.

6. Offerors shall identify those ports in which they have any active arrest warrants or similar actions pending that would either delay the vessel from performing or otherwise prevent the vessel from free entry/departure.

7. Corporate Viability. The Offeror shall provide the most recent audited financial information containing, at a minimum, balance sheets, cash flow statements, income statements, and combined financial statements that illustrate the company's ability to remain a viable business concern. If an Offeror intends to utilize the financial information or assistance of another entity to meet the corporate viability requirement (loan, income statement from parent company, etc.), that Offeror must provide signed statement(s) proving that entity's agreement with the arrangement. The Offeror must furnish evidence of adequate financial resources to perform the contract or the ability to obtain such resources. For the purpose of this section, adequate financial resources are an amount equal to the total value of forty-five (45) days of the proposed daily charter hire rate for the vessel (calculated based on the firm period charter hire rate).

8. Offerors shall provide a copy of their current assessment in Supplier Performance Risk System (SPRS) in Procurement Integrated Enterprise Environment (PIEE) in accordance with DFAR 252.204-7019 NIST SP 800-171 DoD Assessment Requirements.

9. The Offeror must submit completed Representations and Certifications of all applicable provisions included in the solicitation. Such Representations and Certifications include, but are not limited to:
   - FAR 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations-Representation;
   - FAR 52.209-5, Certification Regarding Responsibility Matters;
   - FAR 52.209-7, Information Regarding Responsibility Matters;
   - FAR 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law;
   - FAR 52.222-56, Certification Regarding Trafficking in Persons Compliance Plan;
   - FAR 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation;
   - FAR 52.240-90, Security Prohibitions and Exclusions Representations and Certifications
   - DFARS 252.204-7016, Covered Defense Telecommunications Equipment or Services—Representation; and
   - DFARS 252.204-7017, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services—Representation
   - DFARS 252.225-7966, Prohibition Regarding Russian Fossil Fuel Business Operations—Representation (Deviation 2024-O0006, Revision 1)

- DFARS 252.225-7973, Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems—Representation. (DEVIATION 2024-O0014)
- DFARS 252.225-7055, Representation Regarding Business Operations with the Maduro Regime (MAY 2022)
- DFARS 252.225-7059, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region–Representation
- DFARS 252.229-7012, Tax Exemptions (Italy)—Representation (MAR 2012)

Items that are not applicable must be marked "N/A". If an Offeror has completed its representations and certifications electronically in SAM (http://www.sam.gov), it must so state in its proposal.

10. Offerors shall confirm that it will provide the required insurance as required in Part III (q) and Part III (r) of the solicitation.

11. Evidence of Contractor Responsibility. Offerors must provide evidence to support the prospective contractor's affirmative responsibility determination, to include a response to each of the seven (7) elements of a responsibility determination as defined in FAR 9.104-1.

12. Evidence that the Offeror has the right to offer the proposed vessel. Offeror shall certify that it currently owns or is the bareboat or time charterer of the vessel(s). If the Offeror is not the owner, Offeror shall provide with its proposal a copy of the executed bareboat or time charter agreement with the owner, or an executed purchase agreement with the owner. The bareboat or time charter must contain a period of performance ending no earlier than 5 years after the date of delivery. The bareboat charter, time charter, or purchase agreement may be contingent on award of the contract pursuant to this solicitation and may be redacted to protect pricing.

13. Offeror shall provide a description of its right to sell the proposed vessel.

14. The Offeror shall confirm compliance with FAR 52.219-8 with regard to its historical usage and its ability to pay small business subcontractors in a timely manner.

15. In accordance with FAR 52.219-9 and DFARS 252.219-7996, other than small business concerns shall submit a Small Business Subcontracting Plan with their proposal. Offerors shall ensure that they submit a Small Business Subcontracting Plan with all of the information required by FAR 52.219-9. In preparing the Small Business Subcontracting Plan, Offerors should note that historical compliance with FAR 52.219-8 and FAR 52.219-9 may be evaluated as part of past performance in future source selections. A subcontracting plan is NOT REQUIRED from small business concerns and will not be reviewed.

16. In accordance with DFARS 252.237-7023 and 252.237-7024, all Offerors shall submit a completed Mission-Essential Contractor Services Plan Worksheet (Attachment 9).

17. If DFARS Clause 252.247-7026 is present in this solicitation:
    a. Offeror shall provide the following information with its offer, addressing all covered vessels for which overhaul, repair, and maintenance work has been performed during the period covering the current calendar year, up to the date of proposal submission, and the preceding four calendar years:
        (i) Name of vessel.
        (ii) Description of qualifying shipyard work performed.
        (iii) Name of shipyard that performed the work.
        (iv) Inclusive dates of work performed.

    b. Offeror shall use the Excel spreadsheet provided for data submission in Shipyard Info Sheet (Attachment 12) and follow the format of the sample. Enter only data for shipyard work completed for the current year and four preceding years; there is no need to annotate "None."

c. Cost of work performed. Offeror shall also submit a statement of the percent of the cost of covered work that was performed in shipyards in the United States or Guam. If no covered work has been performed during the current calendar year and four preceding calendar years, the Offeror shall provide a statement that no covered work was done on the vessel.

18. The Offeror **warrants** that it accepts the solicitation's performance requirements without exception, unless listed below. This warranty takes precedence over any statements or information to the contrary in the offer. It is understood that failure to provide the warranty that the Offeror accepts the solicitation's performance requirements, without exceptions, will make the offer ineligible for award.

    a. Exceptions: 1. [Offeror shall list any exceptions, to be completed by Offeror, as required but understands that any exception may make them ineligible for award]__

TECHNICAL PROPOSAL.

1. The Technical Proposal shall NOT contain any pricing information.

2. Offerors shall follow the instructions set forth below for submission of its technical offer.

   Section 1: Offerors shall provide completed Technical Offer Worksheet (Attachment5) indicating box and page number where compliance with technical requirements is demonstrated in Section 2 (Vessel Characteristics) and/or Section 3 (warranties, drawings, or other documents).

   Section 2: Offerors shall provide a completed Offered Vessel Characteristic Worksheet (Attachment 2) for each tug or class of tugs being proposed. Offerors shall list the name(s) of each tug being proposed on the Offered Vessel Characteristics Sheet. This document will be used to verify conformance with required vessel characteristics found in Part I, Section 9.

   Section 3: Offerors shall provide the below warranties, drawings, or other documents with their proposal to demonstrate that the proposed tugs will meet the minimum requirements as stated in the performance work statement Part I, Section 9 of the Proforma at time of delivery:

   a. General Arrangement Drawings, Pictures, and Other Available Documentation: Fendering and Configuration - Offerors shall confirm each tug is configured with clean non-marking fendering to prevent metal-to-hull contact with surface and sub-surface vessels under normal conditions of pitch and roll by providing the general arrangement drawings, current pictures, and any other documentation available (i.e. Vessel Specification Sheet). Fendering shall be firmly secured to vessel along the entire length. Fendering includes propeller guards, if applicable.

   b. Documents and Certifications: Offeror shall include the USCG COI and COD for each tug listed. Harbor Tugs supporting the US require the Tug to be issued a Certificate of Documentation with a coastwise endorsement, pursuant to 46 USC 55111 and 46 USC 12112. These documents will be used to verify conformance with U.S. Flag, certifications, and other RFP requirements.

   c. Vessel Casualty Plan – (Attachment 10). Offerors shall provide a vessel casualty plan that describes how services will be continued if there is a casualty to the tug or to a system that makes the tug inoperable or incapable of safely providing a required service. The plan must be practicable and must clearly state the means and method for timely acquisition and deployment of a substitute tug in the event of a vessel casualty.

   d. Strike Contingency Plan – (Attachment 10). Offerors shall provide a strike contingency plan that describes how services will be provided if there is a labor strike or any other deficiency of Master or crewmembers. The plan must be practicable and must clearly state the means and method for vessel manning during a strike or labor action and for providing services in the face of disruptive measures typical of a strike situation.

PRICE PROPOSAL. The Offeror's price proposal shall contain the following:

1. Offerors shall provide a completed Offered Rates Sheet (Attachment 4). Rates will be incorporated into the contract upon award.
2. Offerors shall provide a published commercial price list/tariff for the ports covered in PART I, Section 2, if one exists.
3. Offerors shall provide the basis for its delivery/redelivery fees to include previous/follow-on port locations and breakout of costs.
4. Crew Complement. Offerors shall complete Crew Complement Form (Attachment 3) for each performance period.
5. The offeror must certify that the wages and fringe benefits contained in its offer meet, at a minimum, the wage and fringe benefits levels contained in the Department of Labor Wage Determination (Attachment 6).
6. For evaluation purposes, the option price for the FAR 52.217-8 six-month period will use the daily rate of the final period.

(End of provision)

(End of PART X)

PART XI

FAR 52.212-2 EVALUATION--COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DOW DEVIATION 01 FEB 26) (tailored pursuant to FAR 12.205 (a))

(a) Award will be made, if at all, to the responsible offeror (see NOTE (1)) whose offer represents the lowest-priced, technically acceptable offer within the highest statutory categorization outlined in PART XI(e).

NOTE (1): It is emphasized that, as an integral part of the award selection, a responsibility determination of the offeror will be made in accordance with FAR Part 9.104. Within this determination, the Government will only consider an offeror responsible if it presents a viable, continued capacity to fully provide the contracted services in accordance with the charter, regardless of operating conditions (e.g., conflict or contingency operations). This will be determined using the factors shown in FAR Part 9.104, to include 1) experience, 2) operational controls, 3) technical skills, 4) satisfactory past performance record, and 5) ability to comply with required delivery schedule.

(b) Solicitation Compliance. The Government will review all proposals to document whether each proposal complies with the RFP, including all proposal submission requirements. Failure to comply with a proposal submission requirement may render a proposal un-awardable.

(c) In determining the lowest-priced, technically acceptable offer, the following factors will be evaluated:

Factor 1: Technical

Factor 2: Price

(d) Evaluation of Factors

1. Technical. The technical portion of each offeror's proposal will be evaluated based on the information required to be submitted for the TECHNICAL PROPOSAL as described in PART X. Technical proposals will be evaluated based on acceptable/unacceptable criteria. In order to be determined technically acceptable, and thus be eligible for award, vessels must meet or exceed the requirements for the technical factor described in PART X TECHNICAL PROPOSAL and Part I Section 9 - Tug Characteristics. Proposals rated unacceptable for any of the technical requirements listed in Part X TECHNICAL PROPOSAL sub-part 2 ("Section 1" through "Section 3") will be rated overall unacceptable for the technical factor.

2. Price. Price analysis techniques will be used to determine price reasonableness. Materially unbalanced offers will not be considered for award.

   The total evaluated price will equal the sum of the total charter hire for the firm and option periods, including the FAR 52.217-8 option to extend, and any delivery or re-delivery fee, if offered. The sum of the charter hire for each period of performance will equal the total number of days (as stipulated in PART I, Section 4) multiplied by the daily charter hire rate for all tugs. The daily charter hire rates used for evaluation for each tug will utilize the rates proposed in Part I, Section 10. Fuel will not be part of the total evaluated price.

   For evaluation purposes, the option price for the FAR 52.217-8 six-month period will use the daily rate of the final option period.

   The daily hire rate shall also be considered payment in full for all overtime, including but not limited to crew overtime or penalty time required for the making up or breaking of tows. In addition, the daily hire shall include the estimated after-hours as outlined in Section 7 Schedule of Estimates. The after-hour rates are established in After-Hours table in Section 10. The daily hire rate does not include port charges or the price that the contractor pays for fuel.

(e) In its determination regarding the statutory categorization of each evaluated offer, the Government will apply the following statutory preference(s):

I. The Evaluation Preference for Use of Domestic Shipyards — Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade (DFARS Clause 252.247-7026)

Pursuant to these statutory preferences, the Government will categorize all evaluated offers as follows:

- If DFARS Clause 252.247-7026 is present in this solicitation:
  - Category 1 (highest): U.S.-Flag vessel which has had 50 percent or more of its total overhaul, repair, and maintenance work for covered vessels performed in U.S. shipyards
  - Category 2 (lowest): U.S.-Flag vessel which has had less than 50 percent of its total overhaul, repair, and maintenance work for covered vessels performed in U.S. shipyards

If there are no offers in the highest category, the award will be made, if at all, to the lowest-priced, technically acceptable, evaluated offer in the next highest category for which offers exist.

(f) Options. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(g) Apparent Awardee will be required to submit the certification required in FAR Provision 52.222-56 with regards to its Combatting in Trafficking Persons Compliance Plan. Failure to have this information will make the offeror ineligible for award.

(h) Apparent Awardee will need to have a current assessment in the Supplier Performance Risk System (SPRS) application in Procurement Integrated Enterprise Environment (PIEE) in accordance with DFARS Provision 252.204-7019, NIST SP 800-171 DoD Assessment Requirements. Failure to have this information will make the offeror ineligible for award.

(i) For other than small business concerns, unless determined that subcontracting possibilities do not exist, the Government will review the Small Business Subcontracting Plan in accordance with FAR Clause 52.219-9. Failure to submit and negotiate a subcontracting plan acceptable to the Contacting Officer will make the offer ineligible for award of a contract. Only the subcontracting plan submitted by the apparent awardee, if required, will be reviewed and negotiated prior to award.

(j) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

(End of PART XI)

PART XII

(RESERVED)

(End of PART XII)