

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS. OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

2. CONTRACT NO. N00033-05-C-5610	3. AWARD/EFFECTIVE DATE 02 SEPT 2005	4. ORDER NUMBER	5. SOLICITATION NUMBER N00033-05-R-5610	6. SOLICITATION ISSUE DATE 01 SEPTEMBER 2005
7. FOR SOLICITATION INFORMATION CALL: <b>Ken Allen</b>		8. TELEPHONE NUMBER (No collect calls) 202-685-5825		9. OFFER DUE DATE/ LOCAL TIME 02 SEPTEMBER 2005 1200 HOURS EDT

9. ISSUING OFFICE MILITARY SEALIFT COMMAND, PMS 914 CHARLES MORRIS COURT SE WASHINGTON NAVY YARD DC 20398-5540	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNDER THE (THIS) <input type="checkbox"/> SET ASIDE: <input type="checkbox"/> S/MUR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: SIZE STANDARD:	11. DELIVERY FOR DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SET SCHEDULE	12. DISCOUNT TERMS NONE
13. THIS CONTRACT IS A RATED ORDER UNDER DPAS (48 CFR 700)		13b. RATING	
14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP			

15. DELIVER TO CODE	16. ADMINISTERED BY See Item 9 CODE
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17a. CONTRACTOR/ OFFEROR Scotia Prince Cruises Limited 3 Canal Plaza PO Box 15060 Portland, ME 04112-5060 TELEPHONE NO.	17b. PAYMENT WILL BE MADE BY DFAS-OMAHA/FD PO BOX 7020 BELLEVUE, NE 68005
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<input type="checkbox"/> 17c. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER		18. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 16c UNLESS IN BLOCK BELOW IS CHECKED <input checked="" type="checkbox"/> SET ADDENDUM			
19. ITEM NO	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	SEE ATTACHED SCHEDULE <small>(Use Reverse and/or Attach Additional Sheets as Necessary)</small>				

25. ACCOUNTING AND APPROPRIATION DATA	26. TOTAL AWARD AMOUNT (For Govt Use Only) \$10,100,000.00
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<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 57 912.3 AND 57.212-5 ARE ATTACHED.	<input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCLUDES BY REFERENCE FAR 52.212-4, FAR 57.212-5 IS ATTACHED. ADDENDA	<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED

<input type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 2 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN	<input checked="" type="checkbox"/> 29. AWARD OF CONTRACT. REF. SCOTIA OFFER DATED 02 SEPTEMBER 2005. YOUR OFFER ON SOLICITATION (BLOCK 2), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:
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30. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) <i>Ken Allen</i>		
30a. DATE SIGNED 14 Nov 2005	30b. NAME OF CONTRACTING OFFICER (Type in full) KENNETH D ALLEN	30c. DATE SIGNED 14 NOV 2005



**MSC PASSTIME 02  
(12-02)**

Vessel(s): SCOTIA PRINCE
Owner, MINS, CAGE, TIN (and TIN of parent, if applicable): Scotia Prince Cruises, 040233053, 31MD4

**I. PASSTIME BOXES**

Solicitation Number (date): N00033-05-R-0610	Contract Number (date): N00033-05-C-0610
<p>1. Vessel(s) Required: U.S. OR FOREIGN FLAG PASSENGER VESSEL (S) with the following capabilities and characteristics:</p> <ul style="list-style-type: none"> <li>- Capable of comfortably carrying, berthing, and feeding a minimum of 1,000 passengers.</li> <li>- 3 meals per day per person with availability between meals of water, coffee/tea, soda, juice plus light snacks</li> <li>- Weekly cleaning of rooms/linens/personal laundry</li> <li>- Office space for 10 persons; offerors shall provide details of electronic equipment therein</li> <li>- Gangway and on-board security</li> <li>- Medical support; offerors shall provide details of medical capabilities</li> <li>- Provide minor sundries/prescription refill; offerors shall provide details of capability</li> </ul> <p>Preference will be given to U.S. flag vessels.</p>	<p>2. Place/Range of Delivery: Galveston, TX to Pensacola, FL range, port in CHOP</p> <p>3. Place/Range of Redelivery: Galveston, TX to Pensacola, FL range, port in CHOP</p>
<p>4. Charter Period: About six (6) months with one (1) three-month option with no redelivery notice.</p>	<p>5. Laydays:</p> <p>Commencing: 2 Sep 05</p> <p>Cancelling: 10 Sep 05</p>

SCOTIA PRINCE	
Solicitation Number (date): N00033-05-R-5610	Contract Number (date): N00033-05-C-5610

6. Terms/Conditions/Attachments added, deleted or modified:

(Addendum to FAH 52.212-4)

**ADD: SPECIAL REQUIREMENTS.**

(1) Ship Drawings. Within 48 hours of award Owner shall provide detailed ship drawings.

(3) Crew List. Owner must provide an accurate and current crew list within 24 hours of contract award and, additionally, no later than 96 hours prior to delivery of the vessel at the designated load or delivery port (or first designated load port in the case of multiple load ports), time permitting. Further, at any time during the contract period a list of any reliefs scheduled to board the vessel is required 96 hours prior to the personnel change. The crew list shall include full name (including middle name or the letters "NMN" if no middle name), date of birth, place of birth (city and country), passport number and country of issue, and nationality of all crewmembers and other personnel onboard the vessel. The list shall be submitted in an electronic format (Microsoft Excel only). Scanned lists are unacceptable.

(4) Any delay resulting from Owner's failure to provide any of the information or drawings described in paragraphs (1) through (3), above, within the prescribed time frames shall result in a corresponding increase in the time afforded to Charterer to accept delivery of the Vessel.

(5) Statutory Employee. Pursuant to La.R.S. 23:1061(A)(3) the Department of the Navy, by and through Military Sealift Command, and Contractor expressly provide and agree that the United States of America and/or the Department of the Navy, by and through Military Sealift Command, is the statutory employer of any of Contractor's employees and is entitled to the tort immunity provided in La.R.S. 23:1061 and La.R.S. 23:1032.

**ADD: VESSEL SECURITY.**

(1) Owner agrees that Federal personnel and state or local Government law enforcement or public health personnel may board the Vessel at any time at any location for security purposes, give consent for such boarding, and agrees to cooperate fully with such personnel in the boarding party. Owner also agrees to permit such personnel to search without limitation any and all vessel spaces for security, law enforcement, or public health purposes.

(2) Owner agrees to render all necessary assistance to such personnel with respect to the identification and screening of crew members or such others as may be aboard the Vessel. Owner consents to the immediate removal of crewmembers or such others as may be aboard the Vessel deemed unsuitable for any reason by the Contracting Officer or such personnel. Owner agrees to replace any such crewmembers promptly and that such replacements will fully comply with all crew screening requirements. Charterer agrees to bear proven and reasonable costs incurred by Owner associated with replacement, if necessary.

(3) Charterer reserves the right, at Charterer's sole option, to embark such personnel and their weapons at any time during the period of the Charter to protect such personnel, cargo or equipment on board the Vessel.

**ADD: SECURITY THREAT.** In the event of a security threat or incident involving the ship, crew or cargo during the voyage, the ship's master should report any incident immediately to the MSC Area Command in whose area the ship is currently located. The MSCHO Command Center should be contacted if the Area Command cannot be reached. Contact numbers will be provided upon award.

**ADD: SALVAGE.**

SOOTIA PRINCE	
Solicitation Number (date): N00033-05-R-5610	Contract Number (date): N00033-05-C-6610

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

(2) In providing such services, the Navy, through Charterer, agrees to waive all claims for "pure" or "bonus" salvage. Instead, 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, Owner shall be liable for the actual daily rate charged to the Navy by the contractor(s).

(3) 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.

MODIFY: II - incorporate revised clause 52.212-4 (Oct 2003). Tailored language still applies.

MODIFY: III(d) - delete subparagraph (3) (Small Arms and Physical Security) in its entirety.

MODIFY: IV(c) - change second sentence to read "NO redelivery notice shall be provided."

MODIFY: IV(e) - amend penultimate sentence to read as follows: "Optional periods may be declared at any time prior to redelivery of the vessel."

MODIFY: IV(g)(1) - change the first sentence to read as follows:  
During the full period of this Charter Party, Owner shall maintain marine insurance coverage on the Vessel, including Hull and Machinery, Protection and Indemnity (P&I), Pollution Liability, War Risk Hull and Machinery, War Risk P&I, and Second Seamen's War Risk.

MODIFY: IV(g)(5) - delete last sentence.

MODIFY: IV(h)(3) - Change the second and third sentences to read as follows:  
Provided, however, that no proportion of additional premia allocable to insuring an amount in excess of the coverage in place as of the Charter Party date shall be reimbursable by Charterer in respect of any of the foregoing war risk policies. Provided further that Owner shall apply for and remit to Charterer as savings any rebates by reason of reductions in or rebates of premiums charged for entry into war risk exclusion zones.

MODIFY: IV(h) - add new subparagraph: "(5) Owner must immediately notify Charterer of any changes in the vessel's commercial war risk insurance, including but not limited to, extensions of war risk exclusion zones and increases in commercial war risk insurance premiums. Owners must secure Charterer's permission prior to entry into any commercial war risk exclusion zones before incurring liability for additional premiums."

Add Part IV(k)(2) as follows: "Owner shall provide sufficient lifesaving equipment for such personnel in accordance with SOLAS and all other applicable regulatory requirements."

SCOTIA PRINCE	
Solicitation Number (date): N00033-05-R-5610	Contract Number (date): N00033-05-C-5610

MODIFY: IV(p)(3) – First sentence add “and stop removal” after the words “excluding lube oils.”

DELETE: IV(u) – in its entirety.

DELETE: IV(z) – in its entirety and substitute therefor the following:

**REIMBURSABLE SUPPLIES AND SERVICES (CHARTERS) (MAR 2005)**

(1) The Government will reimburse the Contractor only for the actual price paid for those supplies and services that are expressly identified as 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.

(2) To be eligible to receive reimbursement for services and supplies identified in this contract as reimbursable items and obtained in support of this contract, the Contractor must obtain at least three quotes for each transaction in excess of \$2,500 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 and other than fuel, the Contractor need provide the aforementioned documentation only when requested by the Contracting Officer. The Contractor shall maintain documentation of all 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.

(3) The Contracting Officer may reduce the 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 reimbursement is reduced shall be resolved in accordance with the “Disputes” clause of the contract. It shall be the Contractor’s burden to demonstrate that the price it paid for reimbursable supplies and services was fair and reasonable.

(4) When the Contractor expects total funding expended for reimbursable items to reach 85 percent of the total funds available on each 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 Reimbursable Supplies and Services CLIN at the time a reimbursable item is ordered.

SCOTIA PRINCE

Solicitation Number (date): N00033-05-R-5610

Contract Number (date): N00033-05-C-5610

(5) The Government is not obligated to reimburse the Contractor for otherwise reimbursable supplies and services in excess of the funded amount stated in the Schedule under each Reimbursable CLIN.

(6) The Contractor is not obligated to continue performance of any reimbursable work under this Contract or otherwise incur costs for reimbursable supplies or services in excess of the funded amount stated in the Schedule under each Reimbursable CLIN unless the Contracting Officer notifies the Contractor that the funded amount stated in the Schedule under the applicable 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.

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

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

MODIFY: The following Part V clauses are modified, but not called out under this RFP:

(1) V(g)(4) - delete "\$150,000" and substitute therefor "\$700,000."

MODIFY: VI - Incorporate revised clause 52.212-5 (Jul 2005). The following clauses apply: 52.222-3, 52.233-3, 52.203-6, 52.219-4, 52.210 8, 52.219-9, 52.219-14, 52.219-25, 52.222-26, 52.222-35, 52.222-36, 52.222-37, 52.222-39, 52.232-34, and 52.222-41.

MODIFY: VII - Incorporate revised clause 252.212-7001 (Jun 2006). The following clauses apply: 52.203-3, 252.205-7000, 252.210 7003, 252.225-7012, 252.226-7001, 252.243-7002, and 252.247-7024.

MODIFY: VIII - Item (1), delete "within 20 days" and substitute therefor "at any time prior to redelivery of the vessel."

MODIFY: VIII - Delete item (8), DFARS 252.204-7004.

CHANGES APPLICABLE TO FOREIGN FLAG OFFERS ONLY:

(1) II(n)(1) - last sentence of subparagraph (1), delete the words, "and that the vessel shall be under U.S. flag upon delivery (see DFARS 252.247-7025 at Part VIII concerning requirements for reflagging work in U.S. shipyards)."

(2) IV(k) delete subparagraph (4) in its entirety.

*Other Terms: Part IV(o)(1) notwithstanding, MSC shall pay in addition to the base hire, and at cost, for any port, berthing or tax costs incurred and for water and fuels consumed. Since the ship will be unable to put to sea so as to make her own water or dispose of waste, Owner will require MSC to pay, as needed and at cost, for barges or shore pipe connections or other arrangements to remove sewage and waste from the ship and to bring fresh water for passengers and crew.*

(b)(4)

SCOTIA PRINCE	
Solicitation Number (date): N00005-05-R-0010	Contract Number (date): N00005-05-R-0010
7. Vessel/Flag/Year Built SCOTIA PRINCE/Bahamas/1972	8. Proposal Firm Until: 30 Sept 2005
9. Amendments Acknowledged (amendment numbers and dates):	
10. Owner (style, address, phone, cell phone, pager, e-mail, fax)  Scotia Prince Cruises Limited PO Box 15060 Portland, ME 04112-5060	11. Broker (address, phone, e-mail, fax):  [ ]
12. Remittance Address for Hire (if other than Box 11)	
13. Reserved.	

(b)(4)

NOV-14-2005 16:06

COMSC PM51

202 685 5850

P.08

SCOTIA PRINCE	
Solicitation Number (date): N00033-05-R-0010	Contract Number (date): N00033-05-C-5610

PRICING DATA

CLIN 0001 - Charter Hire (See Attachment to SF1449 for other CLIN numbers and expenditure types.)

	BOX NOS., SHIP STATUS, AND EXPENDITURE TYPES		
	14. POS 2521K	15. ROS<10 DAYS 2521K	16. ROS≥10 DAYS 2521K
Firm Period	E	J E	J
First Option	E	J E	J
Second Option	N/A	N/A	N/A

17. Indicate crewing arrangements during ROS (less than 10 days) and ROSS (10 days and longer).  
N/A

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18. Other costs  
Ballast Bonus Charleston to US Gulf: \$100,000  
Ballast Bonus US Gulf to Charleston: \$100,000  
CLIN 0001 Charter Hire \$10,100,000  
CLIN 0002 Reimbursables, Not to Exceed \$2,900,000



<b>SCOTIA PRINCE</b>	
<b>Solicitation Number (date): N00033-05-R-5610</b>	<b>Contract Number (date): N00033-05-C-5610</b>

**VESSEL DATA (continued)**

<p>50. Number of guest cabins: <b>382 (172 with facilities)</b></p>
<p>51. Number of guest beds: <b>1052</b></p>
<p>52. SOLAS compliant? Describe in detail.</p> <p><b>Yes Passenger safety certificate issued by Bureau Veritas</b></p> <p><b>US Coast Guard Control verification issued 4/15/2004, Portland, Maine</b></p>
<p>53. Liferafts (Identify number, type, rated capacity and whether motorized):</p> <p><b>1 fast rescue boat</b>  <b>2 motor liferafts (54 persons each)</b>  <b>6 motor liferafts (91 persons each)</b></p>
<p>54. Victualing to be provided (Identify the timing, of and types of meals and beverages to be provided and seating arrangements):</p> <p><b>Three meals per day per day per person with availability between meals of water, coffee/tea, soda, juice, light snacks.</b></p>
<p>55. Entertainment spaces to be made available (describe by size, location, function and staffing):</p> <p><b>None</b></p>

<b>SCOTIA PRINCE</b>	
Solicitation Number (date): <b>N00033-05-R-5610</b>	Contract Number (date): <b>N00033-05-C-5610</b>

**GASUALTIES / DEFICIENCIES**

56. Has vessel been involved in any serious grounding or collision within twelve months from the submission date of this proposal? (include full description if "yes")

None

57. Are any deficiencies lodged by any regulatory body outstanding against the Vessel (include full description if "yes")?

None

<b>SCOTIA PRINCE</b>	
Solicitation Number (date): <b>N00033-05-R-5610</b>	Contract Number (date): <b>N00033-05-C-6610</b>

58. Average warranted speed (knots, for laden, moderate weather):  17 Knots	59. Average warranted speed (knots, for ballast, moderate weather):  17 Knots
60. Average fuel consumption (net bbls at 60°F and grade(s), for laden, moderate weather passage at speed identified in Box 60):  270 per day	61. Average fuel consumption (net bbls at 60°F and grade(s), for ballast, moderate weather passage at speed identified in Box 61):  270 per day
62. Auxiliaries underway fuel consumption (net bbls at 60°F and grade(s), only if not elsewhere identified):  30 per day	63. Idle period fuel consumption (net bbls at 60°F and grade(s)):  60 per day

**FUEL CONSUMPTION AT VARIABLE SPEEDS**

Average fuel consumption (net bbls at 60°F for all grades and all engines/auxiliaries utilized while underway over moderate-weather passages at the speed, ranges, and grade(s) indicated)

64. Grades Consumed:

65a. LADEN TO SUMMER MARKS				65b. BALLAST			
Knots	Net bbls per mile	Net bbls per day	Operating Range (NM)	Knots	Net bbls per mile	Net bbls per day	Operating Range (NM)
6>	1.1	160	3030	6>			
7>	0.98	165	3400	7>			
8>	0.86	170	3780	8>			
9>	0.81	175	4110	9>			
10>	0.75	180	4440	10>			
11>	0.70	185	4750	11>			
12>	0.66	190	5060	12>			
13>	0.64	200	5200	13>			
14>	0.63	210	5290	14>		SAME	
15>	0.63	220	5200	15>			
16>	0.64	245	5200	16>			
17>	0.65	270	5050	17>			
18>	0.69	300	4830	18>			
19>	0.73	333	4680	19>			
20>				20>			
21>				21>			
22>				22>			
23>				23>			
24>				24>			
25>				25>			

SCOTIA PRINCE	
Solicitation Number (date): N00033-05-R-5610	Contract Number (date): N00033-05-C-5610

**FUEL GRADE**

66. Minimum Vessel fuel specifications:

For Main Engines: IFO 100

For Auxiliary Engines: MGO

CONTINUATION



67. Continued

Box No.	Description

**MILITARY SEALIFT COMMAND  
PASSENGER TIME CHARTER (PASSTIME)**

**PREAMBLE**

1. This Request for Proposals (RFP) is a solicitation for offers to perform a Charter Party (the "contract" or "Charter") in accordance with the terms and conditions herein.
2. The Charter, when awarded, will consist of the completed Standard Form (SF) 1449, this Preamble, and Parts I through VIII.
3. The signature of the Contracting Officer on SF 1449 signifies acceptance of the contractor's proposal and award of the Charter. The SF 1449 and Parts I through VIII 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 solicitation and those in an offeror's proposal, this solicitation shall control, unless the offeror clearly indicates that it has offered terms and conditions inconsistent with this solicitation and the Government has accepted the changed terms and conditions. All references to boxes in Parts II through VIII shall be to Part I boxes unless otherwise stated.
4. 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.

**MILITARY SEALIFT COMMAND  
COMMERCIAL ITEM ACQUISITION  
PASSENGER TIME CHARTER**

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## **II. FAR 52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAY 1999) (tailored pursuant to FAR 12.302(a))**

### **(a) Inspection (Time)**

#### **(1) In General**

(i) The Vessel and Associated Equipment shall be subject to the Government's inspection as to suitability for the required service prior to delivery and subject to subsequent inspections at any time during the currency of this Charter to determine continuing suitability for the required service as well as to determine whether the material condition of the Vessel and Associated Equipment will prevent effective operation during basic and optional periods (if any) of this Charter. Such inspections shall include but not be limited to:

(A) Condition and operability of navigation, communication, and environmental-protection equipment and existence of appropriate technical manuals and onboard spares;

(B) Condition (tightness and preservation) of hull, deck plating, superstructure, divisional bulkheads and the operability of ground tackle;

(C) General material condition and maintenance of the Vessel;

(D) Condition, operability, and certification of required safety and firefighting equipment;

(E) Operability and safety of engineering spaces and equipment;

(F) Bunker survey;

(G) Condition of all equipment required under this Charter;

(ii) The Government further reserves the right to have the Vessel surveyed at any time by an independent surveyor.

(iii) If in the opinion of the Government Inspector deficiencies exist that preclude the adequacy of the Vessel for the assigned service, a notice for correction will be issued. In the event that the stated deficiencies are not corrected in a reasonable period of time and in the opinion of the Contracting Officer (based upon the recommendation of the Government Inspector and/or the independent surveyor) the Vessel is inadequate for the intended service or unable to operate for the remaining period of the Charter as a result of these deficiencies, the Government reserves the right to cancel this Charter at no cost to the Government at any time during its term or to take any other action available under this Charter Party or authorized by law.

(iv) The Vessel horsepower identified in Boxes 40 and 41 shall, if required by the Contracting Officer, be verified by an independent surveyor approved by the Government.

(2) Predelivery Inspection. A predelivery inspection of the Vessel may be held at Charterer's option upon the request of the Owner; such inspection shall be of an advisory nature only. At any such inspection, any representation of a Government representative present, or lack thereof, shall not be binding on the Charterer. This inspection shall be conducted, if possible, in a

shipyard and on a date mutually agreeable to the Owner and the Government. The Owner will be advised of the condition of the Vessel and Associated Equipment as found by the Inspector. This predelivery procedure is to enable the Owner to correct any deficiencies discovered before the delivery inspection. The results of any predelivery inspection under this Article shall further be without prejudice to any later determinations that the Vessel or its Associated Equipment are unsuitable under this Charter Party, whether made at the delivery inspection or at any time during the currency of the charter period including options if exercised.

(3) Service Inspection

(i) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may –

(A) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(B) Reduce the contract price to reflect the reduced value of the services performed.

(ii) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may –

(A) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or

(B) Terminate the contract for default.

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

(c) Changes. 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 the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is

incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) **Definitions**. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) **Excusable delays (Time)**

(1) **Excepted Events**. Neither the Vessel, her Master, or Owner, nor the Charterer shall, unless otherwise in this Charter Party expressly provided, be responsible for any loss or damage or delay or failure in performing hereunder arising or resulting from any act of God; act of public enemies, pirates, or assailing thieves; arrest or restraint of princes, rulers, or people; seizure under legal process provided bond is promptly furnished to release the Vessel; flood; fire; blockade; riot, insurrection, or civil commotion; earthquake; or explosion. The Vessel 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 drydock or into ways with or without passengers on board.

(2) **Reservation**. The exceptions identified in subparagraph (1) above shall not be such as affect Owner's warranties respecting the condition of the Vessel, or the Owner's obligations herein.

(g) **Invoice**. (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices.

An invoice must include-

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) **Electronic funds transfer (EFT) banking information**.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

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

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

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

(h) **Reserved**

(i) **Payment**. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and OMB prompt payment regulations at 5 CFR part 1315. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(j) **Reserved**

(k) **Reserved**

(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 that reasonably could have been avoided.

(m) **Termination for Cause**

(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 of convenience.

(2) 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) **Reserved**

(o) **Warranty (Time)**

(1) **General**. Owner warrants that the Vessel performing under this Charter Party shall be in full conformity with the requirements of this Charter Party, from the time of delivery and thereafter during the currency of this Charter Party. In particular the Owner warrants that the Vessel is as described in Part I of this Charter Party.

(2) **Regulatory Compliance**. The Owner warrants that the Vessel and all Associated Equipment shall be in full compliance with all applicable international conventions and all applicable laws, regulations, and other requirements of the nation of registry and of the nation(s) and local jurisdictions to whose port(s) and/or place(s) it is contemplated that the Vessel will be ordered hereunder. The Vessel shall be delivered and maintained in the highest class of a recognized classification society and be in compliance with all current safety, health, and pollution regulations promulgated by appropriate authorities, including the latest applicable IMO regulations. The Owner further warrants that the Vessel shall have on board 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.

(3) **Complement**. The Owner warrants that the Vessel shall have an efficient and legally sufficient complement of Master, Officers, and crew with adequate training and experience in operation of all of the Vessel's equipment. The Master, Officers, and entire crew shall be U.S. citizens (if Vessel is U.S.-flag), speak English, and possess valid and current certificates, licenses, and documents.

(4) **Fuel and Speed Warranty**. All the fuel and speed characteristics provided in Part I shall be deemed warranties and any breach of such warranties shall be subject to the remedies in Paragraph II(o)(5) below.

(5) **SOLAS Warranty**. Owner warrants the Vessel is in possession of a Control Verification Certificate issued by the United States Coast Guard in accordance with Regulation 19, chapter 1 of the International Convention for the Safety of Life at Sea, 1974, as amended. The certificate shall be current and shall have been issued within two years of the date of delivery of the Vessel. Owner will provide Charterer with satisfactory evidence of compliance if required to do so. Charterer shall not be liable to Owner for hire or for costs of delay as a result of any delay caused by non-compliance.

(6) **Certificate (Casualty)**. Owner warrants that the Vessel is in possession of a current Certificate (Casualty) issued by the Federal Maritime Commission in accordance with Part 540, Subpart B of 49 C.F.R. Owner will provide Charterer with satisfactory evidence of compliance if required to do so. Charterer shall not be liable to Owner for hire or for costs of delay as a result of any delay caused by non-compliance.

(7) **Remedies.** Should actual performance or readiness of the Vessel show any failure to satisfy one or more of such warranties or other Charter requirements not due to the fault of the Charterer, the hire may be equitably decreased, the Charter may be terminated, or the Vessel may be placed off-hire, at Charterer's option so as to indemnify the Charterer to the extent of such failure.

(p) **Reserved**

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

(r) **Compliance with laws unique to Government contracts.** The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) **Order of precedence.** Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The box format.
- (2) Paragraphs (b), (d), (g), (i), (q) and (r) of FAR 52.212-4.
- (3) The clauses at DFARS 252.212-7001 and FAR 52.212-5.
- (4) The remaining paragraphs of FAR 52.212-4.
- (5) Any addenda within this solicitation or contract, including any license agreements for computer software.
- (6) The Standard Form 1449.
- (7) Solicitation provisions if this is a solicitation.
- (8) Other documents, exhibits, and attachments.

### **III. PASSENGER TIME TERMS AND CONDITIONS (Addendum to FAR 52.212-4)**

#### **(a) Charter Hire**

(1) **Hire Rates.** Charter hire for services under this Charter Party shall be payable at the applicable rates stipulated in Boxes 14A – 16C and shall be earned at the expiration of each fifteen (15) days of the charter period. Except as otherwise provided herein, said hire rates shall be considered payment in full for all services of the Vessel and Associated Equipment under this Charter including all overtime (including but not limited to crew overtime/penalty time required for the opening and closing of hatches), 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. Said hire rates are exclusive of the costs of fuel and port charges, which are addressed at Parts IV(p) (Fuel) and IV(n) (Port Charges and Expenses) below.

(2) **Loss of Vessel.** Should the Vessel be either lost or missing, or become a constructive total loss, this Charter shall terminate and hire shall cease to be payable at the time of her loss or, if said time is unknown, at the time of the Vessel's last received communication. If the Vessel should be off hire or missing when a payment of hire would otherwise be due, payment shall be made for all hire due for the charter period until the Vessel was lost or the last communication was received. Thereafter, payment shall be postponed until the off-hire period ceases or the safety of the Vessel is ascertained, as the case may be.

(b) **Mission.** (Reserved)

#### **(c) Reporting Requirements**

(1) **Charterer's Instructions.** The Charterer shall furnish the Master with all requisite instructions and sailing directions in writing, including COMSC Instruction 3121.9, "Standard Operating Manual," as revised. The Master shall exercise due diligence to observe all such orders and instructions of the Charterer in respect of the Charterer's employment of the Vessel's services. Reports required of the Vessel include, without limitation, the following:

- (i) Movement reports (see COMSCINST 3123.5H, as amended, and COMSCINST 3121.9 section 2-2-5, as amended);
- (ii) Prearrival reports (see COMSCINST 3121.9 sections 2-10-3, 2-2-7, and 2-2-8, as amended);
- (iii) Casualty reports (see COMSCINST 3121.9 sections 2-11-1 through 2-11-5, as amended); and
- (iv) Dry-cargo reports (see COMSCINST 3121.9 section B-2-3-5, as amended).

#### **(d) Crew Qualifications**

(1) The Master of the Vessel shall be under the direction of the Charterer as regards the employment of the Vessel but shall not be under Charterer's orders as regards navigation, care, and custody of the Vessel.

(2) Conduct of Master, Officers, and Crew. If the Charterer shall have reason to be dissatisfied with the conduct of the Master, Officers, or crew, the Owner shall, on receiving particulars of the complaint, investigate the matter and, if necessary, make a change in personnel. The Master, Officers, and crew of this Vessel shall be appointed or hired by the Owner and shall be deemed to be the servants and agents of the Owner at all times except as otherwise specified in this Charter.

(3) Small Arms and Physical Security. Small arms training and qualification firing shall be in accordance with Attachment IX (c) "Small Arms Training and Qualification Firing". Small arms, ammunition and small arms locker shall be Contractor-furnished and in accordance with COMSCINST 3121.9 series. Physical security equipment shall be Contractor-furnished and in accordance with requirements of COMSCINST 5530.3, as revised.

(e) Cleaning

(1) Delivery. Upon delivery in accordance with Part IV(b) (Delivery) below, all berthing spaces and spaces utilized by passengers shall be clean.

(f) MARAD Construction Differential Subsidy (CDS) (MSC 5252.247-9844 (Jun 1998)). The contractor, if operating a Vessel or vessels built with Construction Differential Subsidy (CDS) unequivocally agrees that there will be no increase in contract price due to any liability to repay CDS which such Contractor may incur.

(g) Reserved

(h) Reach and Burthen

(1) Unless specifically disclaimed in Part I herein, the whole reach and burthen of the Vessel (which is, in the Vessel's traditional employment, accessible to passengers and the carriage of passengers' possessions) shall be available for any appropriate use by Charterer at no additional cost.

(i) Reserved.

(j) Reserved

#### **IV. TIME CHARTER COMMON TERMS AND CONDITIONS (Addendum to FAR 52.212-4)**

##### **(a) General Definitions**

**“Alterations”** - Additions of equipment; changes to the configuration, location, type, or number of pieces of equipment or systems; changes in the arrangement and outfitting of Vessel’s structure

**“Associated Equipment”** - Construed to include all contractor-furnished or owned equipment necessary for performance under this Charter

**“Bbl”** - Barrel (42 U.S. gallons volume measure)

**“CAGE”** - Commercial and Governmental Entity Code (reference DFARS 252.204-7001)

**“CFE”** - Contractor-furnished equipment

**“Charter”** - Interchangeable with “Charter Party”

**“Charterer”** - The United States of America

**“Charter Party”** - This document when executed; interchangeable with “contract” and “Charter”

**“Charter Party Date”** - Identified in Box 31c of SF 1449

**“CHOP”** - Charterer’s option

**“COMSC”** - U.S. Department of the Navy, Commander, Military Sealift Command

**“COMSCINST”** - COMSC Instruction

**“Condition Alpha”** - A standard of routine vessel physical security, effective throughout the currency of this Charter, which is associated with good industry practice and prudent seamanship (see also paragraph (ae) (MSC Ship Physical Security) below)

**“Condition Delta”** - A standard of enhanced vessel physical security, effective upon notice from Government authorities, which comes in response to an increased threat to the Vessel, its cargo, or crew. Security measures required to be taken during Condition Delta can be manpower intensive, and additional personnel and matériel may be provided by Government or Government-contracted personnel. Because such personnel or matériel may not be immediately available, Owner must be prepared to unilaterally meet the security requirements of Condition Delta for a period up to three days. See also paragraph (ae) (MSC Ship Physical Security) below

**“Contracting Officer”** - Identified in Boxes 31a and 31b of SF 1449

**“Contracting Officer's Representative (COR) (DFARS 202.101, JAN 2002)”** - means an individual designated (in accordance with subsection 201.602-2 of the DFARS) and authorized in writing by the contracting officer to perform specific technical or administrative functions.

If the Contracting Officer designates a COR, the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the Contracting Officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of contract.

**“Contractor”** - Interchangeable with “Owner”

**“Crew”** - Of the Vessel identified at Box 7

**“DFARS”** - Department of Defense Federal Acquisition Regulation Supplement (issued by the Department of Defense)

**“DOD”** - Department of Defense

**“DWT”** - Deadweight

**“FAR”** - Federal Acquisition Regulation (issued by the Department of Defense, General Services Administration, and National Aeronautics and Space Administration)

**“FCC”** - Federal Communications Commission

**“FEU”** - Forty-foot equivalent unit (container volume measure)

**“FLO/FLO”** - Float-on, float-off loading/discharging process

**“FOS”** - see “Full Operational Status”

**“Ft”** - feet

**“Full Operational Status”** - Vessel manned and provisioned, all Associated Equipment operational, and Vessel prepared in all respects to perform her mission in accordance with this Charter, whether or not so ordered (see paragraph (q) (Reduced Operational Status (Layup) below))

**“GFP”** - Government-furnished property (see FAR 52.245-2 in Part VIII below)

**“Government”** - The United States of America; interchangeable with “Charterer”

**“Government Personnel”** - All embarked personnel not employed by the Owner, including military personnel and Government-employed civilians

**“hp”** – horsepower [1 hp equals 0.745799 kW]

**“kPa”** - kilo Pascal [1 kPa equals 20.886 psf]

**“kW”** - kilowatts [1 kW equals 1.34 horsepower (hp)]

**“LASH”** - Lighter-aboard-ship vessel type

**“LO/LO”** - Lift-on, lift-off loading/discharging process

**“LT”** - Long Ton (2,240 pounds weight)

**“m”** – meter

**“Master”** - Of the Vessel identified in Box 7

**“Moderate Weather”** - Conditions up to and including sustained winds of Beaufort Force 5

**“MSC”** - U.S. Department of the Navy, Military Sealift Command

**“MT”** - Measurement Ton (forty cubic feet volume)

**“NAPS”** - Navy Acquisition Procedures Supplement (issued by the Department of the Navy)

**“Owner”** - That entity exercising commercial control of the Vessel identified in Box 7; 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

**“P&I”** - Marine protection and indemnity insurance

**“Paying Office”** - Identified in Box 18a of SF 1449

**“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

**“Psf”** - pounds per square foot (load measure)

**“Readiness”** - See paragraph (i) below

**“Reduced Operational Status”** - see paragraph (q) below

“RFP” - Request for Proposals; interchangeable with solicitation

“RO/RO” - Roll-on/Roll-off loading/discharging process

“ROS” - Reduced operational status (see paragraph (q) below)

“SDWT” - Deadweight capacity, to assigned summer mean draft

“Speed” - Derived by dividing the total hours at sea on any given sea passage (as shown in the Vessel’s log)--after excluding any hours of non-moderate weather and any sea passage covered by an off-hire calculation--into the total miles at sea on the given sea passage

“SWL” - Safe Working Load

“t” - Metric Ton

“TEU” - Twenty-foot equivalent unit (container volume measure)

“TIN” - Taxpayer Identification Number (see FAR 52.204-03 at XII(b) below)

“USCG” - United States Coast Guard

“USD” - U.S. dollars

“Vessel” - Identified at Box 7

“WOG” - Without guaranty

**(b) Delivery (MSC 5252.247-9804 (Jun 1998))**

(1) Laydays. The Vessel and all Associated Equipment shall be delivered to the Charterer at a port or place in accordance with Box 2 not later than 1600 hours local time (place of delivery) on the cancelling date stated in Box 5, the Owner giving written notice of readiness 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 by the Charterer but not before the commencing date stated in Box 5, 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 or Associated Equipment not be ready in accordance with the provisions hereof by the cancelling date stated in Box 5, said cancellation to

be declared not later than twenty-four (24) hours after 1600 hours local time (place of delivery) on the cancelling date stated in Box 5, should the Vessel not be ready by that time. This Article shall not limit any right of the Government under this Charter Party or any right to take any other action authorized by law.

(2) **Condition.** The Vessel and all Associated Equipment shall be, insofar as due diligence can make them so, 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. The Owner shall exercise due diligence to maintain the Vessel and Associated Equipment in such state during the period of the Charter Party.

(c) **Redelivery.** Unless lost, the Vessel shall be redelivered at a port or place in accordance with Box 3. Charterer shall give Owner not less than twenty (20) days notice of expected date and range of redelivery, and not less than ten (10) days notice of actual port or place of redelivery unless otherwise specified in Box 3.

(d) **Ports/Places (MSC 5252.247-9810 (Jun 1998))**

(1) **Safety.** The Charterer shall exercise due diligence to order the Vessel to safe berths or places (or alongside vessels or lighters reachable on her arrival and designated/procured by Charterer) that the Vessel can approach, lie at, and depart from always accessible, always afloat. The Charterer shall not, however, 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 as aforesaid.

(2) **Ice.** The Vessel shall not be ordered or bound to enter any port or place inaccessible due to ice or at which lights, lightships, markers, or buoys on Vessel's arrival are (or are likely to be) withdrawn by reason of ice. The Vessel shall not be obliged to force ice. If a port or place to which the Vessel is ordered is inaccessible due to ice, the Master shall immediately notify Charterer requesting revised orders and shall remain outside the ice-bound area. If there is danger of the Vessel's being frozen in at any port or place, the Vessel shall, at Master's discretion, proceed to the nearest safe and ice-free position, at the same time requesting Charterer's revised orders. Any delay or detention resulting from ice to be for Charterer's account.

(e) **Charter Period.** This Charter Party shall be for the period designated in Box 4, commencing upon Charterer's acceptance of the Vessel and continuing until either the date of her redelivery or the completion of the voyage then current, at Charterer's sole option. Any optional periods shall be stated in Box 4; in addition, the Government shall have the Time Lost options as specified under paragraph (1) (Time Lost) below and an option to extend services as specified in Part VIII(1) (FAR 52.217-8) below. All optional periods shall be in direct continuation. All optional periods shall be without guaranty, at Charterer's sole option. Optional periods shall be declared not later than thirty days prior to the expiration of the period then current. If the Charterer exercises any option to cancel this Charter as specified at Box 4, such option to redeliver the

Vessel to the Owner shall be in accordance with the prior-notice time frames identified at paragraph (c) (Redelivery) above.

(f) **Drydock**

(1) **General**. Owner, at its expense, shall drydock, clean and maintain the Vessel's bottom and propeller, and make all overhaul and other necessary repairs properly to maintain the Vessel in class, maintain the Vessel in compliance with subparagraph (b)(2) (Condition) above and the warranties of Part II(o) (Warranty) above, and otherwise to keep the Vessel tight, staunch, and strong, and in thoroughly efficient order and condition. For such purpose of drydock, Charterer shall allow Vessel to proceed to an appropriate port upon sixty days prior notice to the Contracting Officer. All towage, pilotage, fuel, gas-freeing if required, water, and other expenses incurred while proceeding to and from drydock shall also be for Owner's account.

(2) **Suspension of Hire**. In case of drydocking, pursuant to this paragraph (f), at a port where Vessel is to load, discharge, or bunker under Charterer's orders, hire shall be suspended from the time the Vessel receives free pratique on arrival, if in ballast, or upon completion of discharge of cargo, if loaded, until Vessel is again ready for service. In case of drydocking at a port other than where Vessel loads, discharges or bunkers, payment of hire shall cease from the time of deviation until the Vessel is again ready and in a position not less favorable to the Charterer than that at which such deviation occurred.

(g) **Insurance**

(1) **General**. During the full period of this Charter Party, Owner shall maintain the customary full-form marine insurance coverage on the Vessel (including cover against pollution damage and cargo loss), including Hull and Machinery, Protection and Indemnity (P&I), War Risk Hull and Machinery including P&I, and Second Seamen's War Risk. Except as otherwise provided in this Charter Party, the expense for such insurance coverages shall be for the Owner's account and shall be deemed to be included in the hire payable under this Charter Party.

(2) **Trading Limits**. If Vessel is sent beyond the limits of American Institute Trade Warranties or Institute Warranties (as applicable) under this Charter Party, Charterer agrees to reimburse Owner for the actual extra cost of additional premia and/or increased deductible levels, to the extent incurred, properly assessed by the Vessel's marine insurance underwriters and payable by the Owner, which extra cost is occasioned by the Vessel's trading beyond such limits.

(3) **Limitation of Liability**. Except as otherwise specifically provided herein, the Charterer shall not be liable for any loss, damage, expense, cost, or liability whatsoever and howsoever incurred by the Owner or Vessel, or which are imposed upon Owner or Vessel by operation of law. Any amount due Owner under this paragraph (g) shall be subject to setoff by Charterer to the extent of any amount recovered under insurance carried by Owner, or to the extent of any amount recoverable under insurance required by subparagraph (1) above.

(4) **Notification to Charterer.** Owner shall, to the maximum extent practicable, keep the Charterer, through the Contracting Officer, currently informed in writing as to the potential vitiation, suspension, lapse, or termination of any of Vessel's insurance policies as a consequence of this Charter Party.

(5) **Charterer Named Assured.** The United States of America shall be named as an additional assured with waiver of subrogation under the Vessel's Hull and Machinery policy (and the Increased Value policy if applicable), the Vessel's P&I entry, any additional pollution liability coverage, the Vessel's War Risk Hull and Machinery policy including P&I, and Second Seaman's War Risk. The naming of the United States on Owner's P&I policy shall be subject to the provisions of Owner's Privilege Clause, when such clause is substantially the same as Privilege Clauses standard in the industry.

**(h) War (MSC 5252.232-9812 (Oct 1998))**

(1) **Voyage Instructions.** If 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 reasonably be expected to be subject to capture, seizure, arrest, or hostile act by a belligerent power (whether de facto or de jure), it shall be unreasonable for Owner not to prosecute said voyage instructions if insurance against said risks is then available commercially or under a Government program or if the Government offers Owner an indemnity under Public Law 85-804 against losses that would be covered by such insurance. In the event of the existence of said risks, Charterer shall, to the extent provided in this paragraph (h), assume provable additional costs of wages (including all additional bonuses and payments required) and insurance and all taxes associated therewith properly incurred by Owner as a consequence of service under this Charter Party.

(2) **Additional Wage Costs.** Charterer shall reimburse Owner for provable additional costs (including taxes associated therewith) incurred pursuant to this Charter Party as a consequence of the risks identified at subparagraph (1) above for (i) wages of Master, Officers, or crew and (ii) required payments or bonuses to Master, Officers, or crew. 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.

(3) **Additional Insurance Costs.** Charterer shall reimburse Owner for provable additional costs of premia and taxes associated therewith (over and above such costs in effect on the Charter Party Date) reasonably incurred pursuant to this Charter Party as a consequence of the risks identified at subparagraph (1) above in the Vessel's War Risk Hull & Machinery policy, in the Vessel's War Risk Protection & Indemnity policy, and in any war risk policy on the lives of or for injuries to officers and crew. Provided, however, that no proportion of additional premia allocable to insuring an amount in excess of the insured value of the Vessel (as of the Charter Party Date) shall be reimbursable by Charterer in respect of any of the foregoing war risk policies. Provided further that Owner shall apply for and remit to Charterer as savings any rebates by reason of Vessel trading in lower-premium war risk areas. Provided further that the

United States of America shall be named as an additional assured with waiver of subrogation noted under all of the foregoing war risk policies. Alternatively, with respect to any area(s) excluded by war risk trading warranties under Owner's commercial war risk insurance coverage, in Charterer's sole option, and at no cost to the Government, Charterer may delete this subparagraph with twenty-four hours notice, in which case (i) Part V(g) (Time Charter War Risk Coverage) below shall automatically be effective; or (ii) the Government shall offer an indemnity under Public Law 85-804.

(4) Insurance Nonavailability. If no commercial or Governmental insurance is available for service under this Charter Party covering the risks identified in subparagraph (1) above, Vessel shall not be required to enter or remain at any port, place, zone, or route subject to said risks; Charterer in such case shall have the right to order the Vessel to other port(s) or place(s).

(i) Readiness (MSC 5252.246-9810 (Jun 1998)). 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, this Charter Party to 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 in Part II(d) above. Nothing in this clause shall limit the rights of the Charterer to place the Vessel off-hire pursuant to paragraph (j) (Off-Hire) below.

(j) Off-Hire

(1) 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 damages 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; drydocking for the purpose of examination or painting bottom; 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 ready and in a fully efficient state to resume her service from a position not less favorable to the Charterer than that at which such loss of time commenced. 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 ready and in a fully efficient state to resume her service from a position not less favorable to the Charterer than that at which such loss of time commenced. When the period of time lost to the Charterer on any one occasion is less than four (4) consecutive hours (or twelve (12) consecutive hours while in repositioning service), the hire shall not be reduced for such period.

(2) 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 therefrom shall be for Charterer's account.

(3) Delays/Excessive Fuel Consumption. If upon any passage the Vessel (i) fails to make the warranted speed in Boxes 58-59 or if her warranted fuel consumption exceeds that in Boxes 60-63, either or both of which are 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 (ii) is delayed more than twelve (12) hours, the hire for the time lost and any cost of extra fuel consumed, if any, shall be borne by the Owner. Any delay by ice shall be for Charterer's account.

**(k) Government Personnel (MSC 5252.247-9858 (Jun 1998))**

(1) 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 persons put aboard by Charterer to the extent such loss or damage is not payable under the Vessel's insurance policies. The Charterer and Owner shall conduct a redelivery inspection. The results of the redelivery inspection shall indicate these damages or losses for which the Government shall be responsible in accordance with this clause.

**(l) Time Lost (MSC 5252.246-9812 (Jun 1998))**

(1) Tacking to the End of Charter Period. Any time lost by the Vessel during the currency of this Charter Party (including during any option period exercised) 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 27 days prior to the termination of the charter period. Hire for such additional declarable period shall be at the same rate as in effect as of the date said declaration was made.

(2) Excessive Time Lost. The Government may by written notice cancel this Charter at no cost to the Government whenever, in any given 365-day period, for any reason whatsoever, more than 30 days are lost except for time lost as a result of the causes set forth in subparagraph (h)(1) (War) above. 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.

(3) Relationship to Other Remedies. No remedy conferred by this paragraph upon the Charterer is intended to be exclusive of any other remedy already conferred by this Charter Party now or hereafter existing at law or in equity or by statute.

(m) **Negligence of Pilots (MSC 5252.247-9815 (Feb 1999))**. The Government, as Charterer, shall not be held responsible, liable, or accountable for losses sustained by the Owner or the Vessel through the negligence of pilots or tugboats although engaged by the Charterer. Pilots and tugboats shall be considered servants of the Owner.

(n) **Port Charges and Expenses (MSC 5252.232-9811 (Jun 1998))**

(1) **Expenses for Charterer**. Except as otherwise provided herein, Charterer shall pay 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 inspections or surveys generally; the costs therefor shall be as mutually agreed and, if for Charterer's account, said costs shall be incurred only after prior written approval from the Contracting Officer.

(2) **Reimbursement**. All of the charges incurred for Charterer's account as noted in subparagraph (1) above shall be paid by the Owner if so required by the Charterer. The Charterer shall thereafter reimburse the Owner for such charges in accordance with Part II(i) (Payment) above and IV(z) (Invoicing and Payment (Reimbursables)) below.

(o) **Owner's Obligation**

(1) **Provisions, Insurance, Wages, Fees, and Other Expenses**. 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 subparagraph (n)(1) (Port Charges and Expenses) above. Owner will be responsible for all port charges associated with the foregoing.

(2) **Dispatch**. The Owner, through its agents, employees, and servants, shall commence and prosecute the voyages made pursuant to this Charter with utmost dispatch and shall render all customary assistance with the Vessel's crew and equipment.

(3) **Logs**. The Owner shall have maintained on board the Vessel deck and engine room logs, true copies of which shall be retained by Owner and made available to the Charterer at any time upon request and at no cost to the Government for a period of 10 years after the expiration of this Charter Party. Logs shall be legible and in English.

(p) **Fuel (MSC 5252.247-9821 (Jun 1998))**

(1) **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 and the Charterer shall pay the Owner for such fuel at the current market price at the port of delivery upon certification and verification of such statement by the Contracting Officer. The Charterer shall pay for the on-hire bunker survey if performed by an independent surveyor and required by the Contracting Officer. The Owner shall provide additional bunkers as may be required by the Charterer prior to the acceptance of the Vessel by the Charterer; and the Charterer shall reimburse the Owner all costs directly connected with the bunkering of the additional fuel, including but not limited to lighterage, dockage and similar charges, and taxes related therewith.

(2) **Provision of Fuel.** The Charterer shall ordinarily supply or cause to be supplied any or all of the fuel required by the Vessel during the period of this Charter. The grade of such fuel is to be specified by the Owner, and the grade supplied shall be at least that grade unless otherwise mutually agreed. For charters exceeding six months, 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.

(3) **Owner's Purchase of Fuel.** The Owner shall, if directed by the Charterer, purchase fuel for the Vessel, in which case the Charterer shall reimburse the Owner the cost of all fuel (excluding lube oils) procured by the Owner and loaded in the Vessel during the period of this Charter. If the Owner is required to incur costs under this paragraph by the Charterer, the Charterer shall thereafter reimburse the Owner for the reasonable expenses of such fuel upon presentation of properly certified vouchers, supporting receipts, and other documentation which justify the charges as fair and reasonable in accordance with Part II(i) (Payment) above. The Owner shall not, however, be reimbursed any amount in excess of the current market price of such fuel at the place of loading plus all reasonable expenses incurred by the Owner in loading said fuel on board the Vessel. The title to all fuel for the cost of which the Owner is entitled to be 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, in the case of any such fuel which is purchased for the performance of this Charter. The Charterer shall be afforded all benefits of Owner's contracts for its fuel requirements, including but not limited to any savings addressed in paragraph (ab) (Savings) below.

(4) **Off-Hire.** 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 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.

(5) **Redelivery.** Upon redelivery of the Vessel, 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 Owner's time and expense. The Charterer shall be credited with the value of fuel on board at the time of redelivery, computed at the current market price at the port of redelivery.

(6) **Reasonable Expenses.** The term "reasonable expenses" as used in this paragraph, shall mean all reasonable costs 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 lighterage, lighter demurrage, or detention incurred; cost of shifting lighters for the convenience of the Vessel, handling lighter lines; and such similar expenses which the Charterer shall find were necessarily incurred in the loading of fuel on the Vessel during the period of this Charter.

(7) **Bunker Sampling Equipment.** For charters exceeding six months, the Owner shall provide and install a "drip-type" fuel oil testing flange for use by the Government in fuel oil testing. Upon award, Charterer shall provide instructions concerning frequency and mailing of samples.

**(q) Reduced Operational Status (Layup) (MSC 5252.212-9805 (Jun 1998))**

(1) **Charterer's Option.** The Charterer shall have the right to direct the Owner to place the Vessel in a period of reduced operational status (ROS). During any such period the rate of hire shall be as stipulated in the applicable boxes in Part I. The less-than-10-day rates stipulated in Part I shall apply over the full term of: (a) any ROS period which actually extends less than 10 days, and (b) any ROS period which is initially estimated by the Charterer to extend less than 10 days. The 10-day-and-longer rates stipulated in Part I shall apply over the full term of any ROS period which is estimated to and does extend 10 days or longer, without reference to any other ROS or FOS rates.

(2) **Notice to Owner.** The Charterer shall give the Owner written or electronic notice or, in the event notice is given by telephone, written or electronic confirmation of exercise of the right specified in subparagraph (1) above, including with said notice an estimate of the duration of the ROS period. Such notice shall also specify the time at which the period of ROS is to commence, which time shall not be less than 48 hours subsequent to the receipt of such notice by the Owner or his representative. The Charterer shall give the Owner written or electronic notice or, in the event notice is given by telephone, written or electronic confirmation of termination of the period of ROS. Such notice shall specify the time at which such period shall terminate, which time shall be at least 72 hours (Saturdays, Sundays and holidays excluded) subsequent to the receipt of said notice by the Owner or its representatives; provided, however, that by agreement between

the Owner and the Charterer the Vessel may be returned to full operational status (FOS) before the time specified in the notice of termination of the reduced operational period.

(r) **Waiver of Claims (MSC 5252.233-9801 (Jun 1998))**. All invoices or claims whatsoever for moneys due the Owner under this Charter must be submitted not later than one year after the relevant period of service. Any said claim or invoice not so submitted shall be deemed waived by the Owner.

(s) **Charter Not a Demise (MSC 5252.247-9823 (Dec 1988))**. 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.

(t) **Subcharter (MSC 5252.247-9822 (Dec 1988))**. 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 responsible for the performance of this Charter. Any such subcharter shall include a provision that it is subject to the provisions of this Charter.

(u) **Amended Jason Clause (MSC 5252.247-9828 (Oct 1998))**. In the event of accident, danger, damage, or disaster before or after commencement of any voyage under this Charter resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequence of which the Owner is not responsible by statute, contract or otherwise, Charterer, the cargo shippers, consignees, or owners of the cargo shall contribute with the Owner in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo. If a salving Vessel is owned or operated by the Owner, salvage shall be paid for as fully as if the salving Vessel belonged to strangers.

(v) **General Average (MSC 5252.247-9818 (Oct 1998))**. General average shall be adjusted, stated and settled according to the York-Antwerp Rules 1974, as amended 1990, or any subsequent modification thereof, in the port of New York and according to the laws and usages of the port of New York. In such adjustment, disbursements in foreign currencies shall be exchanged into United States money at the rate prevailing on the date made and allowances for damage to cargo claimed in foreign currency shall be converted at the rate prevailing on the last day of discharge at the port or place of final discharge of such damaged cargo from the Vessel. Notwithstanding the foregoing, Charterer's contributions in general average shall in no event exceed three times Owner's contribution for any single general average incident.

(w) **Salvage**. 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, if any, and other extraordinary loss or expense sustained as a result of the salvage service. Charter hire shall continue to be paid by Charterer during deviations for the purpose of performing salvage service.

(x) **Limitations (MSC 5252.247-9832 (Jan 1999))**. 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 Party 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 (against parties other than the Charterer) on the theory of personal contract or otherwise.

(y) **Alterations (MSC 5252.245-9801 (Jun 1998))**. 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, such work to be done at Charterer's expense and on its time. The Charterer shall thereafter, during the period of this Charter, leave the Vessel in her original condition, ordinary wear and tear excepted, provided that the Contracting Officer is notified in writing within 30 days of completion of any alteration that the Contractor requests such restoration or removal. The Charterer shall be at liberty 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. Such equipment, armament, materials, and gear so fitted are to be considered "Government Property" under the terms of FAR clause 52.245-02 incorporated by reference in Part VIII hereof. 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.

(z) **Invoicing and Payment (Reimbursables) (MSC 5252.232-9810 (Jul 2000))**.

(1) **Reimbursables**. The Owner shall be reimbursed by the Charterer for all of the charges and expenses which are incurred by the Owner for Charterer's account as herein provided, upon presentation of such vouchers, receipts, and other documentation necessary to determine the charges and expenses fair and reasonable, as are required under the applicable provisions of this Charter Party and billing instructions to the extent such charges and expenses are determined to be fair and reasonable.

(2) **Additional Invoicing Instructions**. In addition to the items required in Paragraph II(g) of the contract, Owner will include (1) the invoice number (no more than 18 alpha numeric characters), (2) CLIN number, (3) Expenditure Type, (4) vessel name, (5) ports, and (6) and (7) the appropriate project and task numbers.

(3) **Payments Other Than EFT.** If payments under this contract are to be made by check, and the contractor elects that the Payment Office send the check via Federal Express, the contractor shall include such instruction and the appropriate Federal Express account number when submitting the invoice for payment.

(aa) **Standards of Appearance (MSC 5252.247-9864 (Jun 1998)).** It is important that the Vessel operation meets the highest possible standards of appearance and Vessel smartness. To this end, the Owner and operator will institute a continuous program of Vessel maintenance. The hull, decks, deckhouse, and all appurtenances will be cleaned and preserved as necessary and painted as required. The interior of the Vessel's deckhouses will be maintained in a clean and orderly state, with all equipment properly and securely stowed. The main and auxiliary machinery spaces will be kept clean and free of excessive accumulations of oil and debris. All spaces will be lighted to allow safe operation and correct maintenance of machinery and equipment.

(ab) **Savings (MSC 5252.232-9813 (Jun 1998)).** 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 reimbursed 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.

(ac) **Law Governing (MSC 5252.247-9833 (Jun 1998)).** This Charter Party shall be governed by the laws of the United States.

(ad) **Substitution.** Owner may, at any time, propose to substitute a vessel or vessels for that proposed or contracted for, which nominated vessel or vessels shall conform to the requirements of this solicitation. Such proposal or proposals shall be subject to Charterer's sole discretion and approval.

(ae) **MSC Ship Physical Security (MSC 5252.247-9845 (Jun 1998))**

(1) **General.** The Owner will comply with and implement the Ship Physical Security Requirements contained in COMSC Instruction 5530.3 "MSC Ship Physical Security," as revised, incorporated herein by reference with the same force and effect as if given in full text. Upon request the Contracting Officer will make the full text available.

(2) **Reimbursement.** For vessels over 10,000 tons summer deadweight, reimbursement for recurring costs of "Condition Delta" (paragraph (a) (General Definitions) above) shall be \$1,000 per day for up to three days. For vessels not in excess of 10,000 tons summer deadweight, reimbursement for recurring costs of "Condition Delta" shall be \$500 per day for up to 3 days. All other costs (non-recurring) shall be included in the basic hire payable under this Charter.

(af) **Method of Payment.** If payments under this contract are to be made by check and the contractor elects that the Payment Office send the check via Federal Express, the contractor shall

include such instruction and the contractor's Federal Express account number when submitting the invoice for payment.

(ag) **Reserved.**

**V. PASSENGER TIME ADDITIONAL CONTRACT REQUIREMENTS  
(AS APPLICABLE) (Addendum to FAR 52.212-4)**

**Unless specifically referenced in Box 6, the paragraphs that follow do not apply to this Charter Party:**

(a) **Security Clearance**. The Owner warrants that the Vessel shall comply with all administrative requirements, including the necessary investigative actions required by the Government to obtain a Government facilities clearance. Further, corporate officers and at least the Master, Chief Mate, and one additional officer (deck or engineering) of the Vessel must be cleared to receive information up to and including SECRET.

(b) **Communications Equipment**

(1) In addition to equipment required by the USCG, Vessel shall be equipped upon commencement of the Charter with the following minimum communications capability:

(i) Global Maritime Distress and Safety System (GMDSS) as outlined in Subpart Q, Part 80, of the Federal Communications Commission (FCC) Rules and Regulations as evidenced by an FCC Approved Installation. GMDSS should meet all requirements for a vessel constructed after 01 February 1995 and operating in Area A3.

(ii) One HF radiotelephone transmitter/receiver: Minimum frequency range 2-30 MHz, 2.8 A-3j emission. Synthesized frequency control for all marine band frequencies. (MINIMUM TRANSMITTER RF POWER OUTPUT 250 WATTS).

(iii) HF radioteletype transmit/receive system (F1 emission) with selective calling device (SELCALL) and error correction device (SITOR) installed in the above system. Minimum frequency range 2-30 MHz and minimum transmitter RF power output 500 watts (DC Lineal Scale)

(iv) International Maritime Satellite (INMARSAT) Standard A or B with dual identification and with bridge voice remote unit. INMARSAT communications equipment must be in good operating condition and vessel must have spare parts kit onboard.

(v) One Telefacsimile machine capable of connection INMARSAT system.

(2) NOTE: The above requirements are not intended to restrict the utilization of the installed radio equipment for normal communications on other assigned or required frequencies.

(3) The Charterer agrees to reimburse the Contractor for necessary communication expenses incurred in the operation of the Vessel except when such expenses are the Contractor's obligation or are incurred for the convenience of the Contractor, the Vessel, her Master, Officers, or crew.

(c) **Navigational Equipment**

(1) In addition to equipment required by the USCG, the Vessel shall be equipped upon commencement of the Charter with the following navigational equipment:

- (i) Two radars (1-10 cm, 1-3 cm), one of which is Automatic Radar Plotting Aids (ARPA) capable.
- (ii) Global Positioning System (GPS)
- (iii) Gyro Compass
- (iv) Automatic Steering Device
- (v) Fathometer
- (vi) Speedlog
- (vii) Weather facsimile

(d) **Fuel Monitoring**

(1) A computer-generated reporting system which monitors daily fuel oil consumption shall be installed. At a minimum, the reporting system will show the following (automated to maximum extent practicable):

- (i) Daily fuel oil consumption.
- (ii) Speed made good over the ground.
- (iii) Speed made good through the water.
- (iv) Average propeller RPM per day.
- (v) Vessel draft.
- (vi) Sea and weather states.

(2) At the end of each voyage/passage, a summary shall be submitted giving the total time at sea, total distance steamed, total average speed, and total fuel consumed for the passage.

(3) The fuel oil monitoring/reporting system shall record on a daily and quarterly basis by voyage. Reports and data collected by the system shall be submitted to COMSC Contracting Officer on magnetic media (5 1/4 inch or 3.5 inch) floppy disks which can be read by an MS-DOS 5.XX compatible micro computer. Also required are the file path/directory of the disk and the definition of the data elements in the file.

(4) Accompanying the submitted disk will be a statement certifying the accuracy of the data contained therein as a true and exact copy of Vessel deck and engine log books.

(e) **Bonuses**

(1) The delivery ballast bonus identified in Box 18 is in consideration of the Vessel's timely delivery and loading at the port, place, or range stipulated in Box 2 of this Charter, said Vessel having positioned there in ballast from the area identified elsewhere in Part I.

(2) Charterer shall have the unilateral right to change the delivery port or place once or more often, always consistent with Box 2.

(3) Should Charterer order Vessel to deliver at a port or place other than that intended in Box 2, and should said change necessitate a ballast passage either shorter or longer than originally contemplated, the bonus shall be adjusted. This adjustment shall be proportionate to the change in ballast distance, expressed as a percentage variation describing the difference between the ballast distance run and the ballast distance originally contemplated.

(4) The redelivery ballast bonus identified in Box 18 is in consideration of the necessity to reposition the Vessel in ballast to its customary trading range after its redelivery at the port, place or range stipulated in Box 3 of this Charter.

(5) Charterer shall have the unilateral right to change the redelivery port or place once or more often, always consistent with Box 3.

(6) Should Charterer order Vessel to redeliver at a port or place other than that intended in Box 3, and should said change necessitate a ballast passage either shorter or longer than originally contemplated, the bonus shall be adjusted. This adjustment shall be proportionate to the change in ballast distance, expressed as a percentage variation describing the difference between the ballast distance run and the ballast distance originally contemplated.

(7) Unless otherwise agreed, the delivery bonus shall be considered earned upon acceptance of vessel by Charterer and the redelivery ballast bonus shall be considered earned upon redelivery of vessel to Owner.

(8) In the event a follow-on contract is awarded in direct continuation of this contract, Owner shall not be entitled to a ballast/redelivery bonus under this contract and any bonus or other cost delineated herein for redelivery of the Vessel shall be voided.

(f) **No-Cost Cancellation.** If it shall become clear to Owner that the Vessel will be delayed in arrival beyond the cancelling date identified in Box 5, Owner may, at the earliest 72 hours before the Vessel is due to sail for the delivery port, ask Charterer in writing whether the right to cancel will be exercised. Upon receipt of such written notice, Charterer shall, within one (1) business day thereafter, exercise one of the following actions:

(1) This Charter may be cancelled at no cost whatsoever to either party and the parties shall be relieved of any and all further responsibilities thereunder; or

(2) The cancelling date may be extended to a date mutually agreed, and all other terms and conditions of the Charter shall continue in full force and effect.

(g) **Time Charter War Risk Coverage.** Under the authority of 46 U.S.C. App. 1285, the U.S. Maritime Administration will furnish the following war risk insurance coverages, which will be

effective during the Vessel's transit during this Charter of areas currently excluded under commercial marine insurance war risk trading warranties.

(1) 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;

(2) War Risk Protection and Indemnity coverage, insured at a value of either: (i) one-hundred fifty percent of the hull value stated in Vessel's current commercial hull policy effective on Charter Party date; or (ii) USD 50 million, 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;

(3) War Risk Blocking and Trapping Coverage;

(4) War Risk Second Seamen's Coverage, the principal sum of which shall be USD 150,000 per Master, Officer, or crew member (this is also loss-of-life benefit). Non-hospitalization disability payments therein to be payable in the amount of USD 1,000 per month. Dismemberment benefits to be payable in accordance with the schedule identified in the policy, as a percentage of the USD 150,000 principal sum. For loss of or damage to personal effects, an amount not exceeding USD 1,500 shall be payable to licensed officers, and an amount not exceeding USD 1,000 shall be payable to unlicensed crew members and U.S. Merchant Marine cadets and cadet officers.

(5) 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 which 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 (effective under this Charter Party when the loss of time began), 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) Terms of coverage above referenced to be in accordance with MARAD policies issued pursuant to the authority of 46 U.S.C. App. 1285 as approved by the Contracting Officer, in the form of Policy set forth in 46 CFR 308, as such form is amended.

(7) Contractor shall provide, as a minimum, a Certificate of Insurance evidencing types and levels of insurance held. If requested by Contracting Officer, the Contractor shall provide a copy of above mentioned policies with endorsements.

(8) Notwithstanding any other provision of this Charter Party, all other insurance shall be for Contractor's account.

(h) **Partnering Agreement**

(1) **General.** The Government proposes to form a Partnering relationship with the Contractor in order to improve cooperation, share information about significant interests and concerns and establish mutually acceptable problem-solving procedures to resolve disputes satisfactorily at a minimum cost.

(2) **Implementation.** The Partnering relationship will be bilateral and participation will be totally voluntary. The Government anticipates convening a workshop as soon as possible after contract award to develop details such as common goals, lines of communication and specific dispute prevention processes.

(3) **Additional Costs.** Any costs associated with effecting this Partnership will be agreed to by both parties; each party will bear its own costs.

(i) **Both to Blame.** To the extent not inconsistent with U.S. law, the following shall apply:

(1) If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect, or default of the Master, mariner, pilot, or servants in the navigation or in the management of the Vessel, the Charterer shall indemnify Owner, or where Owner is not the owner/charterer of the Vessel, shall indemnify Owner as agent or trustee for the Owner, against all loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of or damage to, or any claims whatsoever of the Charterer, paid or payable by the other or non-carrying ship or her owners to the Charterer and/or owners of the cargo and set off, recouped, or recovered by the other or non-carrying ship or her owners as part of their claim against the Vessel or Owner.

(2) The foregoing provisions shall also apply where the owners/operators or those in charge of any ship or ships or objects other than, or in addition to the colliding ships or object are at fault in respect of a collision or contact, stranding, or other accident.

(j) **Reserved**

(k) **Meals, Beverages and Entertainment**

(1) Vessel shall have the capability to feed embarked government personnel American style breakfast, lunch, dinner and midnight rations (MIDRATS). The menu shall consist of food with appropriate nutritional value. Cost indicated at Box 18 shall include all aspects of the food service, including all crew overtime. All meals to be served buffet style. Menus to be agreed between Owners and Charterer.

(2) Contractor shall provide unlimited soft drinks throughout the duration of the charter period, at no additional cost to the Government.

(3) Alcoholic beverage sale by the Owner to embarked personnel can be performed at Owner's option only when authorized by the U.S. Government Officer-in-Charge. Alcoholic beverages shall be paid for by the individual purchaser at the time of sale. The Government shall not be responsible for any uncollected monies for alcoholic beverages.

(4) Charterer shall have use of all passenger areas of the Vessel but none of the "normal" cruise passenger services or entertainment will be provided, except that movies, swimming pool, gym, one public room with bar, drug and souvenir shop and laundry shall be made available. Movies, gym and pool will be free of charge; but to the degree that the other facilities are used, they will be billed to the individual user at normal onboard prices.

**VI. FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS-COMMERCIAL ITEMS (MAY 2002)**

(a) The Contractor shall comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

- (1) 52.222-3 Convict Labor (E.O. 11755).
- (2) 52.233-3 Protest after Award (31 U.S.C. 3553).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components:

*[Contracting Officer must check as appropriate.]*

- (1) 52.203-6 Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).
- (2) 52.219-3 Notice of Total HUBZone Small Business Set-Aside (Jan 1999).
- (3) 52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer).
- (4) (i) 52.219-5 Very Small Business Set-Aside (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).  
(ii)  Alternate I) to 52.219-5.  
(iii)  Alternate II) to 52.219-5.
- (5) 52.219-8 Utilization of Small Business Concerns (15 U.S.C. 637 (d)(2) and (3)).
- (6) 52.219-9 Small Business Subcontracting Plan (15 U.S.C. 637(d)(4)).
- (7) 52.219-14 Limitations on Subcontracting (15 U.S.C. 637(a)(14)).
- (8) (i) 52.219-23 Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).  
(ii)  Alternate I) of 52.219-23.
- (9) 52.219-25 Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (10) 52.219-26 Small Disadvantaged Business Participation Program-Incentive Subcontracting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (11) 52.222-21 Prohibition of Segregated Facilities (Feb 1999).
- (12) 52.222-26 Equal Opportunity (E.O. 11246).
- (13) 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212)

- (14) 52.222-36 Affirmative Action for Workers with Disabilities (29 U.S.C. 793)
- (15) 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212).
- (16) 52.222-19 Child Labor-Cooperation with Authorities and Remedies (E.O. 13126).
- (17) (i) 52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Products (42 U.S.C. 6962(c)(3)(A)(ii)).  
(ii) ( Alternate I) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- (18) 52.225-1 Buy American Act-Supplies (41 U.S.C. 10a - 10d).
- (19) (i) 52.225-3 Buy American Act-North American Free Trade Agreement-Israeli Trade Act (41 U.S.C. 10a - 10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note).  
(ii) ( Alternate I) of 52.225-3.  
(iii) ( Alternate II) of 52.225-3.
- (20) 52.225-5 Trade Agreements (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
- (21) 52.225-13, Restriction on Certain Foreign Purchases (E.O. 12722, 12724, 13059, 13067, 13121, and 13129).
- (22) 52.225-15 Sanctioned European Union Country End Products (E.O. 12849).
- (23) 52.225-16 Sanctioned European Union Country Services (E.O. 12849).
- (24) 52.232-33 Payment by Electronic Funds Transfer-Central Contractor Registration (31 U.S.C. 3332).
- (25) 52.232-34 Payment by Electronic Funds Transfer-Other than Central Contractor Registration (31 U.S.C. 3332).
- (26) 52.232-36 Payment by Third Party (31 U.S.C. 3332).
- (27) 52.239-1 Privacy or Security Safeguards (5 U.S.C. 552a).
- (28) (i) 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241).  
(ii) ( Alternate I) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

*[Contracting Officer check as appropriate.]*

- (1) 52.222-41 Service Contract Act of 1965, As Amended (41 U.S.C. 351, et seq.).
- (2) 52.222-42 Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (3) 52.222-43 Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (4) 52.222-44 Fair Labor Standards Act and Service Contract Act-Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (5) 52.222-47 SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351, et seq.).

(d) **Comptroller General Examination of Record.** The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

(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 Subpart 4.7, Contractor Records Retention, of the 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 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.

(e) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) or (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components-

- (1) 52.222-26 Equal Opportunity (E.O. 11246);
- (2) 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212);
- (3) 52.222-36 Affirmative Action for Workers with Disabilities (29 U.S.C. 793);
- (4) 52.247-64 Preference for Privately-Owned U.S. Flag Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996); and (5) 52.222-41, Service Contract Act of 1965, As Amended (41 U.S.C. 351, et seq.).

**FAR 52.232-35 DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION (MAY 1999)**

(a) As provided in paragraph (b) of the clause at 52.232-34, Payment by Electronic Funds Transfer-Other than Central Contractor Registration, the Government has designated the office cited in paragraph (c) of this clause as the office to receive the Contractor's electronic funds transfer (EFT) information, in lieu of the payment office of this contract.

(6) 9

(b) The Contractor shall send all EFT information, and any changes to EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office, or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) Designated Office: N8

Name: Military Sealift Command  
Mailing Address: Attn: Code N86  
914 Charles Morris Court, SE  
Washington Navy Yard, DC 20398-  
5540  
Telephone Number: (202) 685-5864  
Person to Contact: Carolyn Merritt  
Electronic Address: )

**VII. DFARS 252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (APR 2002)**

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

52.203-3 Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

- 252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
- 252.206-7000 Domestic Source Restriction (DEC 1991) (10 U.S.C. 2304).
- 252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).
- 252.219-7004 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).
- 252.225-7001 Buy American Act and Balance of Payments Program (MAR 1998) (41 U.S.C. 10a-10d, E.O. 10582).
- 252.225-7007 Buy American Act--Trade Agreements--Balance of Payments Program (SEP 2001) (41 U.S.C. 10a-10d, 19 U.S.C. 2501-2518, and 19 U.S.C. 3301 note).
- 252.225-7012 Preference for Certain Domestic Commodities (APR 2002) (10 U.S.C. 2533a).
- 252.225-7014 Preference for Domestic Specialty Metals (MAR 1998) (10 U.S.C. 2533a).
- 252.225-7015 Preference for Domestic Hand or Measuring Tools (DEC 1991) (10 U.S.C. 2533a).
- 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (DEC 2000) ( Alternate I) (DEC 2000) (Section 8064 of Pub. L. 106-259).
- 252.225-7021 Trade Agreements (SEP 2001) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (MAR 1998) (22 U.S.C. 2779).
- 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (DEC 1991) (22 U.S.C. 2755).
- 252.225-7029 Preference for United States or Canadian Air Circuit Breakers (AUG 1998) (10 U.S.C. 2534(a)(3)).
- 252.225-7036 Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program (MAR 1998)

- Alternate I) (SEP 1999) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
- 252.227-7015 Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
- 252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- 252.247-7023 Transportation of Supplies by Sea (MAR 2000)
- Alternate I) (MAR 2000)
- Alternate II) (MAR 2000) (10 U.S.C. 2631).
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (MAR 1998) (10 U.S.C. 2533a).
- 252.247-7023 Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(3) 4

**VIII. FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

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 these addresses:

<http://www.arnet.gov/far/>  
<http://www.acq.osd.mil/dp/dars/dfars.html>

*(Contracting Officer check as appropriate.)*

- (1) FAR 52.217-8 Option to Extend Services (NOV 1999) [insert 20 days into the last sentence.]
- (2) FAR 52.219-6 Notice of Total Small Business Set-Aside (JUL 1996)
- (3) FAR 52.219-7 Notice of Partial Small Business Set-Aside (JUL 1996)
- (4) FAR 52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information (MAY 1999)

(c) Designated Office:

Name:

**Military Sealift Command**

Mailing Address:

**Washington Navy Yard**

**ATTN: Code N8**

**914 Charles Morris Court, SE**

**Washington, DC 20398-5540**

Telephone Number:

**202-685-5864**

Person to Contact:

**Carolyn Merritt**

Electronic Address:

- (5) FAR 52.245-2 Government Property (Fixed-Price Contracts) (DEC 1989)
- (6) DFARS 252.204-7004 Required Central Contractor Registration (MAR 2000)

- (7) DFARS 252.223-7002 Safety Precautions for Ammunition and Explosives (MAY 1994)
- (8) DFARS 252.225-7043 Antiterrorism/Force Protection for Defense Contractors Outside the United States (JUN 1998)
- (9) DFARS 252.245-7001 Reports of Government Property (MAY 1994)
- (10) DFARS 252.247-7025 Reflagging or Repair Work (MAY 1995)

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