

**MILITARY SEALIFT COMMAND**  
**DRY CARGO VOYAGE CHARTER (DRYVOY- SPOT)**  
**FEBRUARY 2026 (02-26)**

**PREAMBLE**

1. This Request for Proposals (RFP) is a solicitation for offers to perform a Charter Party (the “Contract” or the “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 IX.
3. The signature of the Contracting Officer on SF1449 signifies acceptance of the Contractor’s proposal and award of the Charter. The SF 1449 and Parts I through IX contain in full all of the amendments, references, responses, deletions, additions and interlineations made by both parties to the RFP and the proposal as of the Charter Party date. In the event that there is any inconsistency between the terms and conditions of this Contract and those in an offeror’s proposal, this Contract shall control. All references to boxes in Parts II through IX 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.

**LIST OF EFFECTIVE CHANGES**

| Description Changes  |
|--|
| Part I - DRYVOY Boxes, DRYVOY Box 26; changed from Official number to IMO number.      |
| Part II has been deleted and replaced in its entirety.                                 |
| Part III(u) Vessel Name Release revised to read “Reserved.” Can be found in Part X(j). |
| Part III(x) Owner(s) Consideration for Vessel Delay; added.                            |
| Part VI has been deleted and replaced in its entirety.                                 |
| Part VII has been deleted and replaced in its entirety.                                |
| Part VIII is hereby “Reserved.”  |
| Part X has been deleted and replaced in its entirety.                                  |
| Part XI has been deleted and replaced in its entirety.                                 |
| Part XII is hereby “Reserved.”   |
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**MILITARY SEALIFT COMMAND  
COMMERCIAL SERVICE ACQUISITION  
DRYVOY CHARTER**

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## MSC DRYVOY 2026

### PART I - DRYVOY BOXES

|   |                      |   |                      |                |             |               |                      |                      |                      |                      |                      |
|---|----------------------|---|----------------------|----------------|-------------|---------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Solicitation Number (date):   |                      | Contract Number (date):   |                      |                |             |               |                      |                      |                      |                      |                      |
| 1. Vessel(s) Required:  |                      | 2. Cargo Description (including measure, identifying weight or volume, and if margin identify at whose option and when declarable):   |                      |                |             |               |                      |                      |                      |                      |                      |
|   |                      | <table border="1"> <tr> <td>a. Load:</td> <td>F.I.O.S.S.</td> <td>F.I.O. ex S.S</td> <td>LINER TERMS</td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> |                      | a. Load:       | F.I.O.S.S.  | F.I.O. ex S.S | LINER TERMS          |                      | <input type="text"/> | <input type="text"/> | <input type="text"/> |
|   |                      | a. Load:  | F.I.O.S.S.           | F.I.O. ex S.S  | LINER TERMS |               |                      |                      |                      |                      |                      |
|   | <input type="text"/> | <input type="text"/>  | <input type="text"/> |                |             |               |                      |                      |                      |                      |                      |
| <table border="1"> <tr> <td>b. Discharge:</td> <td>F.I.O.S.S.</td> <td>F.I.O. ex S.S.</td> <td>LINER TERMS</td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> |                      | b. Discharge:   | F.I.O.S.S.           | F.I.O. ex S.S. | LINER TERMS |               | <input type="text"/> | <input type="text"/> | <input type="text"/> |                      |                      |
| b. Discharge:   | F.I.O.S.S.           | F.I.O. ex S.S.  | LINER TERMS          |                |             |               |                      |                      |                      |                      |                      |
|   | <input type="text"/> | <input type="text"/>  | <input type="text"/> |                |             |               |                      |                      |                      |                      |                      |
| 3. Load Port(s)/Place(s):   |                      | 4. Laytime:   |                      |                |             |               |                      |                      |                      |                      |                      |
| 5. Discharging Port(s)/Place(s):  |                      | <table border="1"> <tr> <td>DAYS</td> <td>SHEX</td> <td>SSHEX</td> <td>SSHINC</td> </tr> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>    |                      | DAYS           | SHEX        | SSHEX         | SSHINC               | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
|   |                      | DAYS  | SHEX                 | SSHEX          | SSHINC      |               |                      |                      |                      |                      |                      |
| <input type="text"/>  | <input type="text"/> | <input type="text"/>  | <input type="text"/> |                |             |               |                      |                      |                      |                      |                      |
| 6. Laydays:   |                      |   |                      |                |             |               |                      |                      |                      |                      |                      |
| Commencing:   |                      |   |                      |                |             |               |                      |                      |                      |                      |                      |
| Cancelling:   |                      |   |                      |                |             |               |                      |                      |                      |                      |                      |
| 7. Terms/Conditions/Attachments added, deleted or modified  |                      |   |                      |                |             |               |                      |                      |                      |                      |                      |

|   |  |             |                 |                       |
|---|--|-------------|-----------------|-----------------------|
| Vessel(s):  | Solicitation number (date):  |             |                 |                       |
|   | Contract Number (date):  |             |                 |                       |
| 8. Vessel/Flag/Year Built:  | 9. Proposal Firm Until:  |             |                 |                       |
| 10. Amendments Acknowledged (amendment numbers and dates):                                      |  |             |                 |                       |
| 11. Contractor (name, address, phone, e-mail, fax):   | 12. Broker (address, phone, e-mail, fax):  |             |                 |                       |
| CPARS POC, if different from above (name, email):   | 13. Remittance address for hire (if other than box 11):  |             |                 |                       |
| 14. Laydays Proposed:<br>Commencing:<br><br>Cancelling:   | 15. Expected Ready to Load:  |             |                 |                       |
| 16. Vessel's Itinerary to include ports and dates (pre-delivery and execution of charter):      | <div style="display: flex; justify-content: space-between;"> <span>17. Lift Quantity (ies) Proposed: Full Cargo</span> <span>Partial Cargo:</span> </div> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; width: 50px; height: 20px;"></div> <div style="border: 1px solid black; width: 50px; height: 20px;"></div> </div> <p style="text-align: center; margin-top: 5px;">Full Cargo to Apply If Neither Block Is Marked</p> |             |                 |                       |
| 18. Voluntary Intermodal Sealift Agreement (VISA) Status of Offeror and Vessel(s): (SELECT ONE) |  |             |                 |                       |
| <input type="checkbox"/> Offeror IS a VISA Participant.   | <input type="checkbox"/> Vessel(s) offered IS (ARE) Enrolled in VISA.  |             |                 |                       |
| <input type="checkbox"/> Offeror HAS APPLIED to be a VISA Participant.                          | <input type="checkbox"/> Vessel(s) offered WILL BE Enrolled in VISA.   |             |                 |                       |
| <input type="checkbox"/> Offeror IS NOT a VISA Participant.                                     | <input type="checkbox"/> Vessel(s) offered IS (ARE) Not Enrolled in VISA.  |             |                 |                       |
| 19. Rates (USD)   |  |             |                 |                       |
| <b>CLIN</b>   | <b>Description</b>   | <b>Unit</b> | <b>Quantity</b> | <b>Extended Price</b> |
| (TBD at award)  | Freight Rate   |             |                 |                       |
| (TBD at award)  | Demurrage  |             |                 |                       |
| (TBD at award)  | Detention  |             |                 |                       |



|  |                             |
|--|-----------------------------|
| 62. General description of ramps (number, location, size, capacity, and type) (note particularly weight of heaviest permissible vehicle in LT or t):   |                             |
| Vessel:  | Solicitation Number (date): |
| Contract Number (date):  |                             |
| 63. General description of cargo spaces and special features:<br>Decks: number, size in ft2 and cu ft; size in m2 and cu m; strength in psf/kPa; arrangement<br>Holds and Hatches: number and size<br>Hatch Covers: number, size, composition, and type<br>Underdeck Height Restriction<br>Description of lashing points; lashing and securing gear; type; description; and amount aboard<br>Barge-Stowage Particulars<br>Float-on / Float-off Particulars |                             |
| 64. Number/location/SWL capacity of winches, derricks, booms, and cranes:  |                             |
| 65A. Has vessel been involved in any serious grounding or collision within twelve months from the submission date of this proposal?<br>(include full description if "yes")   |                             |
| 65B. Identify any port(s) in which you have any active arrest warrants or similar actions pending that would either delay the vessel from performing, or otherwise prevent the vessel from free entry/departure.   |                             |
| 66. Are any deficiencies lodged by any regulatory body outstanding against the Vessel (include full description if "yes")?   |                             |

67. CONTINUATION

Unless specifically referenced in box 7, this page I-5 does not apply to this Charter Party.

Solicitation Number (date):

Contract Number (date):

**For Contracts of Affreightment (COA), boxes 8,15, & 17 are deleted in their entirety**

68. Performing Vessels:



|  |  |  |   |  |
|--|--|--|---|--|
| 69. Program of Shipments   |  |  |   |  |
| Unless specifically referenced in box 7, this page I-6 does not apply to this Charter Party.   |  |  | Solicitation Number (date):   |  |
|  |  |  | Contract Number (date):   |  |
| For Semisubmersible Transport (Float-On/Float-Off (FLO/FLO), Boxes 2,3,4 & 5 are deleted in their entirety.  |  |  |   |  |
| 70. Cargo Description:   |  |  | 72. Loading Site:   |  |
|  |  |  | 73. Discharging Site:   |  |
|  |  |  | 74a. Laytime - Loading:      Days      SHEX      SSHEX      SSHINC<br><div style="display: flex; justify-content: space-around; width: 100%;"> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> </div>   |  |
| 71. Riding crew?    Yes <div style="border: 1px solid black; width: 40px; height: 20px; display: inline-block;"></div> No <div style="border: 1px solid black; width: 40px; height: 20px; display: inline-block;"></div> |  |  | 74b. Laytime Discharging:      Days      SHEX      SSHEX      SSHINC<br><div style="display: flex; justify-content: space-around; width: 100%;"> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> </div> |  |

|                             |                         |
|-----------------------------|-------------------------|
|                             |                         |
| Solicitation Number (date): | Contract Number (date): |

CONTINUATION

|   |  |
|---|--|
| 75. Space for continuation of responses (refer to prior box numbers): |  |
| Box #   |  |

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

a) *Definitions.* (TAILORED) The clause at Federal Acquisition Regulation (FAR) 52.202-1, Definitions, is incorporated by reference. Additional contract-specific definitions are listed in Part IV.

b) *Inspection/Acceptance.* (TAILORED)

1. In General. The Vessel and her hull; machinery; boilers; all holds, voids, tanks, spaces and equipment whatsoever shall be subject to Charterer's inspection as to suitability for the required service prior to acceptance of the Vessel and at any time during the period of this Charter Party. The Owner shall instruct the Vessel's Master to give every assistance so as to enable Charterer's inspector(s) properly to observe operations throughout the Vessel.
2. Charterer's Rights. If in the opinion of the Charterer's inspector a deficiency or condition renders the Vessel inadequate for the required service, the Charterer shall have the option to cancel this Charter Party at no cost to the Government or to require any necessary corrective actions at the Vessel's expense and to the Charterer's satisfaction.
3. Limitation of Charterer's 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 by operation of law.
4. Cooperation of Master. The Charterer or designated representative(s) shall have the right at loading and/or discharging port(s) or place(s) to inspect the Vessel and observe operations. The Owner shall instruct the Master to give every assistance so as to enable said representative(s) to observe operations throughout the Vessel properly. Charterer's representative(s) shall not interfere with the Vessel's operations. Any delay to the Vessel resulting from the Charterer's inspections shall count as laytime or, if the Vessel is on demurrage, as time on demurrage.
5. Surveyors and Consultants. 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.

c) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of

the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

- d) *Changes*. (TAILORED) Changes within the general scope of any of the terms and conditions of this Contract may be ordered by the Contracting Officer. If any such change causes an increase or decrease in the cost of performance, such change will be the subject of a bilateral modification to the Contract. However, nothing in this clause shall excuse the Contractor from proceeding with the Contract as changed.
- e) *Disputes*. This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal, or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause FAR 52.233-1, Disputes, which is incorporated in this contract by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.
- f) *Excusable Delays (TAILORED)*
  - 1. Excepted events. Neither the Vessel, her Master, the 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 dry dock or into ways with or without cargo, passengers or other personnel, as applicable, onboard.
  - 2. Notification. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
  - 3. Reservation. The exceptions identified in subparagraph (1) above shall not be such as to affect the Owner's warranties respecting the condition of the Vessel, or the Owner's obligations respecting the services specified under this Charter. Defaults of subcontractors at any tier or the Owner's failure to perform due to a labor disruption, labor dispute, or strike shall not constitute excepted events under subparagraph (1).
- g) *Invoice*. The Government will handle invoices according to the Prompt Payment Act (31 U.S.C. 3903) and 5 CFR part 1315. The Contractor shall submit invoices to the address designated in the contract to receive invoices. An invoice must include the information required by 5 CFR part 1315.9(b).

- h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees, and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.
- i) *Payment—*
1. Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.
  2. Prompt payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.
  3. Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.
  4. Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—
    - i. Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—
      - (A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
      - (B) Affected contract number and delivery order number, if applicable;
      - (C) Affected line item or subline item, if applicable;
      - (D) Contractor point of contact; and
    - ii. Provide a copy of the remittance and supporting documentation to the Contracting Officer.
  5. Interest.
    - i. All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109,

which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

- ii. The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.
- iii. *Final decisions.* The Contracting Officer will issue a final decision as required by FAR part 33 if—
  - (A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;
  - (B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or
  - (C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see FAR part 32).
- iv. If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.
- v. Amounts shall be due at the earliest of the following dates:
  - (A) The date fixed under this contract.
  - (B) The date of the first written demand for payment, including any demand for payment resulting from a termination for cause.
- vi. The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—
  - (A) The date on which the designated office receives payment from the Contractor;
  - (B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or
  - (C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

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

*j) Risk of loss (TAILORED)*

1. Carriage of Goods by Sea Act (COGSA). Except as otherwise specified herein, the Owner, Vessel, and Charterer in all matters arising under this Charter Party shall be entitled to the like privileges, rights, and immunities (from the time the cargo is loaded until the time it is discharged from the Vessel) as are contained in 46 U.S.C. App. 1300-1315. However, any references in COGSA to (a) notices of loss or damage or (b) limitation-of-action periods shall not apply to this Charter Party. For purposes of this Charter Party, the term "carrier" as used in COGSA shall mean "the Owner" and the term "shipper" shall mean "the Charterer."
2. Containers. For purposes of the application of the COGSA, goods shipped in containers that are stowed on deck shall be deemed shipped under deck. With respect to the limitation of liability provisions of COGSA, a container shall be considered a single package only if bulk cargo is stored therein. For non-bulk cargo shipped in containers, the limitation of liability provisions of COGSA shall apply to each package within a container or, for non-packaged cargo, to each measurement ton of cargo within the container. See also III(r) (Deck Cargo).
3. Package Limit. Except in the case of containerized cargo, for purposes of the application of COGSA, in the case of any loss or damage to or in connection with goods exceeding an actual value \$500 per package, or in the case of goods not shipped in packages, per measurement ton, the value of the goods shall be deemed to be \$500 per package or per measurement ton, and the Owner's liability, if any, shall be determined on the basis of the value of \$500 per package or per measurement ton, unless the nature of the goods and a valuation higher than \$500 shall have been declared in this Charter Party and, in such case, if the actual value of the goods per package or per measurement ton shall exceed such declared value, the value shall nevertheless be deemed to be the declared value. Should the Charterer declare valuation higher than \$500.00 per package or per measurement ton, the Charterer shall direct the Owner to obtain increased cargo legal-liability coverage on said higher-declaration cargo, with the expense of any additional premia and incurred deductibles therefor for Charterer's account.
4. Other Statutes. The Owner and the Vessel shall have the benefit of all limitations of and exemptions from liability accorded the Owner by any U.S. 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 to the extent such statute or rule of law is subordinate to any statutorily mandated provision of this Charter Party by operation of law).



5. Fire. Neither the Owner nor any corporation owned by, subsidiary to, or associated or affiliated with the Owner shall be liable to answer for or make good any loss or damage to the cargo occurring at any time and even though before loading on or after discharge from the Vessel, by reason or by means of any fire whatsoever, unless such fire shall be caused by its design or neglect or unless such wholly owned, subsidiary, or associated corporation serves as underwriter for the Owner and the policy between the Owner and underwriter provides coverage for such liability.
- k) *Taxes (TAILORED)* Dues, taxes, wharfage, pilotage, towage, canal tolls, and other charges upon the Vessel, even when assessed on the quantity of cargo loaded or discharged, shall be paid by the Owner and for their account.
- l) *Termination for the Government's convenience*. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.
- m) *Termination for cause (TAILORED)*
1. The Government may terminate this Contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any Contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this Contract for default, such termination shall be deemed a termination for convenience.
  2. If this Contract is terminated while the Contractor has possession of Government goods, the Contractor shall, upon direction of the Contracting Officer, protect and preserve the goods until surrendered to the Government or its agent. The Contractor and Contracting Officer shall agree on payment for the preservation and protection of the goods. Failure to agree on an amount will be a dispute under the Disputes clause.

3. The rights and remedies of the Government herein are in addition to any other rights and remedies provided by law or under this Contract.
- n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.
- o) *Warranty*. (TAILORED)
1. General. Owner warrants that, from the time when the obligation to proceed to the loading port(s) or place(s) attaches, and thereafter during the currency of this Charter Party, the Vessel shall be in full compliance with the specifications herein in addition to all other requirements of this Charter Party. The Vessel's cargo capacity, position, and other particulars as set forth in this Charter Party are warranties by the Owner. Should the Vessel fail to satisfy one or more of such warranties or other warranties contained in this section not due to the fault of the Charterer, the freight may be equitably decreased so as to return the Charterer to a position equivalent to that had the warranty not been breached, this Charter Party otherwise to remain unaffected; alternatively, this Charter Party may in such case be terminated at Charterer's option pursuant to II(m) (Termination for Cause) above.
  2. Condition. The Owner warrants that, before and at the commencement of the voyage(s) hereunder, it shall exercise due diligence to ensure that the Vessel and her hull, machinery, gear, runners, boilers, holds, and other equipment are fully functional and in good working order and condition, with holds dry, free from smell, and swept clean, and that the Vessel is in every way seaworthy, tight, staunch, strong, and fit to carry and preserve the cargo identified in Box 2 and to perform the voyage(s) required hereunder.
  3. Regulatory Compliance. The Owner warrants that the Vessel 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 may be ordered under this Charter Party; and of any terminals or facilities in said port(s) and/or place(s); and of any classification society in which the Vessel is entered. The Owner further warrants that the Vessel shall have on board during the currency of this Charter Party 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 promulgated pursuant to the Federal Water Pollution Control Act as amended and/or the Oil Pollution Act of 1990, and valid gear certificates as required. Upon delivery and throughout the currency of this Charter Party, Vessel shall be entered and maintained in the highest class of a recognized classification society.

4. 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 and possessing valid and current certificates/documents issued or approved by the country of the Vessel's registry. The Owner further warrants that the Master and those Officers charged with cargo and/or bunker oil handling shall be proficient with conversational English.
  5. Port Restrictions. If particular ports or places are identified in Boxes 3 and 5, the Owner warrants that a vessel of the type, tonnage, and configuration of the Vessel identified in Box 8, laden as contemplated herein, shall be able to approach, lie at, and depart from said ports or places (if safe) always afloat. Any data supplied by the Charterer in any RFP or this Charter Party respecting any port conditions or restrictions are provided for informational purposes and are not warranted to be complete or accurate. Compliance with any additional and/or conflicting conditions or restrictions shall be the Owner's responsibility.
  6. Communications/Navigation Equipment. Vessel shall be equipped with all navigation equipment required by USCG or flag state (if non-US Flag) as appropriate and in full compliance with all international requirements and regulations. Vessel must also have INMARSAT, facsimile and email capability and, if not included on Q-88, contractor shall provide contact numbers for same on award.
  7. 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.
- p) *Limitation of Liability* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.
- q) *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; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 49 U.S.C. 40118, Government-financed air transportation; and 41 U.S.C. chapter 21 relating to procurement integrity.
- r) *Order of precedence (TAILORED)*

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

- (1) Information set forth in the Boxes (Part 1);
- (2) Paragraphs (c), (e), (g), (i), and (q) of FAR 52.212-4 (as tailored).
- (3) Any remaining addenda or portions thereof within this solicitation or Contract.

- (4) The Standard Form 1449.
- (5) Solicitation provisions if this is a solicitation.
- (6) Other documents, exhibits, and attachments.

s) *Unauthorized obligations.*

1. Except as stated in paragraph (s)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:
  - i. Any such clause is unenforceable against the Government.
  - ii. Neither the Government nor any Government-authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.
  - iii. Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.
2. Paragraph (s)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

t) *Comptroller General examination of record.* This paragraph applies if this contract was awarded *using* other than sealed bid procedures and is in excess of the simplified acquisition threshold on the date of award of this contract.

1. The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor’s directly pertinent records involving transactions related to this contract.
2. The Contractor shall make available at its offices, at all reasonable times, the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR part 4, longer period required by statute, or periods specified in other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes

clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

3. As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This clause does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.
- u) *Incorporation by reference.* The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

### **PART III. DRY CARGO VOYAGE TERMS AND CONDITIONS (addendum to FAR 52.212-4)**

#### **(a) FREIGHT**

- (1) Rate. Freight shall be as stipulated in Box 19.
- (2) When Earned. Freight shall be considered earned after right and true delivery of the cargo at the discharging port(s) or place(s). Should the agreed measure of freight be based upon measure of the cargo, payment shall be based upon the intaken quantity of cargo (using the measure identified in Box 19) identified in the Cargo Manifest. For purposes of payment of freight, delivery of cargo at destination shall be established either by a copy of the Cargo Manifest, signed by the Charterer's Receiving Agent, or upon certification of delivery by the Contracting Officer based on information available to him or her. For purposes of payment of freight, delivery of cargo shall be deemed to occur upon discharge of the cargo at final destination.
- (3) Withholding. Upon delivery, if there is any damage to or shortage of cargo not definitely known to be the fault of the Charterer or its agents and if it is considered by the Contracting Officer that withholding of certain monies is necessary to protect the interests of the Charterer pending final determination of the amount of shortage or damage and the Owner's liability therefor, the dollar amount of such shortage or damage may be estimated and withheld from any monies owing to the Owner by the Charterer.

#### **(b) OVERAGE**

- (1) In the event Charterer furnishes and Owner loads cargo in excess of the maximum cargo quantity identified in Box 2, an overage rate shall be developed by dividing the lump sum rate in Box 19 by the cargo amount (e.g. TEU's, FEU's, Sq Ft; in the case of mixed cargo, 1 TEU shall equate to 160 Sq Ft, 1 FEU shall equate to 320 Sq Ft, and vehicles will be measured in square feet based on vehicle dimensions) specified in Box 2 (excluding allowable variations). One third the resultant per unit rate shall be payable on such excess quantity.
- (2) This section not to apply if so agreed, or if a full cargo is stipulated in Box 17. Should a full cargo be agreed, Charterer shall be entitled to load the Vessel full at no additional cost except in the case of liner terms agreed in Box 2, in which case Owner shall be entitled to additional costs and reasonable profit to load, stow, and secure additional cargo.

#### **(c) DEADFREIGHT**

- (1) When Earned. Should the minimum cargo quantity identified in Box 2 (or a full cargo, whichever is the lesser) not be supplied, the Master shall give immediate Telegraphic Notice or Telephonic Notice to the Charterer that such cargo quantity has not been furnished, indicating the shortage, and shall then await Charterer's instructions. Should

Charterer fail to provide additional cargo, Vessel, upon request of Charterer, shall then proceed on its voyage provided the Vessel thus loaded is in a seaworthy condition in the judgment of the Master. In that event, deadfreight shall be completely earned and payable on the difference between the quantity loaded and the minimum cargo quantity identified in Box 2, or Vessel's full cargo capacity, whichever is the lesser. Should the Vessel be incapable of loading the minimum cargo quantity identified in Box 2, such deadfreight shall not be payable.

- (2) When Applicable. This paragraph (c) not to apply if so agreed, or if freight to be paid on a lump sum basis.

**(d) DEMURRAGE**

- (1) Rate. Demurrage shall be payable at the rate stipulated in Box 19 per day of twenty-four (24) running hours, and pro rata for part thereof. Demurrage shall not be payable when liner terms are agreed in Box 2.
- (2) When Earned. The Charterer shall pay demurrage for all time by which allowed laytime identified in Box 4 and III(k) (Laytime/Demurrage) below is exceeded by the time taken for loading and discharging and for all other Charterer's purposes and which under this Charter Party counts as laytime or time on demurrage.
- (3) Invoices. Any claim for demurrage shall be delivered with supporting documents, including a Standard Statement of Facts (Attachment IX(C)) and a Laytime Statement (Attachment IX(D)), not later than 120 days after the completion of final discharging hereunder, failing which Charterer to be discharged from any and all liability in respect thereof. Supporting documents shall be submitted to the Contracting Officer for approval prior to submission of demurrage invoices. After receiving Contracting Officer's concurrence, Owner may submit demurrage invoices (with the annotated Statement of Facts and Laytime Statement) to the Paying Office identified in Box 18a of SF 1449.
- (4) Documentation. In the event of demurrage, all supporting documents as identified in the invoicing clause shall be submitted to the Contracting Officer for approval prior to submission of demurrage invoices. After receiving the Contracting Officer's concurrence, Owner may submit demurrage invoices to the office identified in Box 18a of SF 1449.

**(e) DETENTION**

- (1) Rate. Should liner or FLO/FLO terms be agreed in Box 2, detention shall be paid at the per diem rate stipulated in Box 19 or pro rata for part thereof.
- (2) When Earned. Detention shall be payable when actions of the Charterer cause unreasonable delay of Vessel.

(3) Invoices. Invoicing shall be in accordance with guidance provided in Part III(d)(3) (Demurrage) above.

(4) Documentation. In the event of detention, all supporting documents as identified in the invoicing clause shall be submitted to the Contracting Officer for approval prior to submission of detention invoices. After receiving the Contracting Officer's concurrence, Owner may submit detention invoices to the office identified in Box 18a of SF 1449.

**(f) CARGO**

As ordered by Charterer, Owner shall load up to a full and complete cargo not exceeding what she can reasonably stow and carry over and above her bunker fuel, water, tackle, apparel, furniture, and stores, and in any case not in excess of the quantity permitted by the minimum permissible freeboard for the voyage always consistent with the discharging port(s)/place(s).

**(g) NON-GOVERNMENT CARGO**

Loading and discharging of other than Government part cargo(es) during the currency of this Charter, and itineraries therefor, shall be subject to the prior written approval of the Contracting Officer. Any delays or shifting expenses resulting from other than the carriage of Government cargo shall be for the Owner's account. Any non-Government cargo loaded shall in no way be detrimental to the cargo identified in Box 2.

**(h) LOADING AND DISCHARGING**

(1) Costs of loading and discharging shall be allocated as per Box 2.

(2) Stevedores, whether appointed and/or paid by Charterer, Owner, or others, shall be deemed servants of the Owner and shall work under the supervision of the Master. The cargo shall be loaded, stowed, secured, and discharged to the Master's satisfaction in respect of seaworthiness. See also III(o) (Stevedore Damage) below.

**(i) PORTS**

(1) Voyage. Unless otherwise agreed, the Vessel shall proceed with utmost dispatch to those loading port(s) or place(s) ordered by the Charterer in accordance with Box 3 (or so near thereto as she may safely get and lie always afloat) and there load the cargo identified in Box 2. Upon completion of loading and signing of the Cargo Manifest, the Vessel shall proceed with utmost dispatch to those port(s) or place(s) ordered by Charterer in accordance with Box 5 (or so near thereto as she may safely get and lie always afloat) and their discharge said cargo. Unless loading and/or discharging berths are specifically identified in Boxes 3 and 5, the responsibility for providing safe ports lies with the Charterer.



- (2) Nomination. Should Boxes 3 or 5 permit Charterer to order the Vessel to load and/or discharge at one or more ports or places out of two or more ports or places named, or within a named range, the Charterer shall nominate loading and discharging port(s) and place(s) in sufficient time to avoid delay to the Vessel. However, the Charterer may at any time change said nominations and nominate new port(s) or place(s) whether or not within the range or rotation of the port(s) or place(s) previously nominated, always consistent with Boxes 3 and 5. Should any such change of voyage orders be made, any time by which the steaming time to the port(s) or place(s) to which the Vessel is finally ordered exceeds the steaming time which would have elapsed had the Vessel been ordered to such port(s) or place(s) immediately upon sailing therefor shall count as laytime or, if the Vessel is on demurrage, as time on demurrage (less the value of the Vessel's in-port bunker consumption for the period of such excess time). In addition, the Charterer shall reimburse the Owner the cost of any extra fuel consumed as a consequence of such excess time (at the market price where and when bunkers are next taken), but only upon such certification and verification as are required at IV(l) (Reimbursable Supplies and Services (Charters)).
- (3) Routing/Speed Orders. Should the Charterer issue routing instructions or orders to reduce speed, or should a military escort be agreed, any additional steaming time which results from said instructions, orders, or escort shall count as laytime or, if the Vessel is on demurrage, as time on demurrage. In addition, the Charterer shall reimburse the Owner the cost of any extra fuel consumed as a consequence of any of Charterer's routing instructions (at the market price where and when bunkers are next taken after issuance of said instructions or orders) (less the value of the Vessel's in-port bunker consumption for the period of such excess time) upon such verification as required at IV(l) (Reimbursable Supplies and Services (Charters)).
- (4) Shifting
- (i) The Charterer shall have the right to shift the Vessel at loading and discharging ports from one berth to another or from a berth to an anchorage once or more often. Except as otherwise provided, the Owner shall be reimbursed the costs of towage, pilotage, running lines on arrival at and upon leaving the berth, and wharfage, dockage, agency fees, customs fees, overtime, and other port charges and expenses properly incurred and payable as a consequence of Charterer's shifting of the Vessel. Furthermore, except as otherwise provided, time lost to the Vessel as a consequence of Charterer's shifting shall count as laytime or, if the Vessel is on demurrage, as time on demurrage less the value of the Vessel's in-port bunker consumption for the period of such lost time. Furthermore, except as otherwise provided, the Charterer shall reimburse the Owner for the cost of any extra fuel consumed as a consequence of Charterer's shifting (at the market price where and when bunkers are next taken after such shifting occurs).
  - (ii) Notwithstanding the foregoing, no amounts shall be payable by the Charterer under this paragraph if said shifts are identified in Boxes 3 or 5. Further notwithstanding the foregoing, any amounts payable by Charterer under this paragraph shall be

subject to such certification and verification as are required at IV(1) (Reimbursable Supplies and Services (Charters)). Further notwithstanding the foregoing, Charterer shall in no case reimburse the Owner for pilotage paid to any Master, Officer, or crew of the Vessel.

- (5) Rotation. Should Boxes 3 or 5 permit Charterer to order Vessel to load and/or discharge at one or more ports or places out of two or more ports or places named, or within a named range, the rotation of ports shall be at Charterer's option.
- (6) Lightening. Provided not on account of any insufficiency of the Vessel, any lightening necessary at port(s) or place(s) of discharge to enable the Vessel to reach her discharging berth(s) shall be at Charterer's risk and expense, with time counting as laytime or, if the Vessel is on demurrage, as time on demurrage.
- (7) Seaworthy Trim. Should Boxes 3 or 5 permit Charterer to order the Vessel to load or discharge at more than one loading and/or discharging port or place, the Vessel is to be left in seaworthy trim to the Master's satisfaction for the passage between said ports or places, at Charterer's expense and with time so spent counting as laytime or, if the Vessel is on demurrage, as time on demurrage.

**(j) NOTICE OF READINESS**

- (1) In Berth. When the Vessel has arrived in the ordered berth at each loading or discharging port or place and is in all respects ready to load or discharge in accordance with this Charter, a notice of readiness shall be tendered during Office Hours SSHINC to the Charterer's representative by the Master or Owner's agent by letter, electronic-mail, radio, or telephone. An oral notice shall be confirmed promptly in writing.
- (2) Out of Berth. Should a berth be either unavailable or not designated upon the Vessel's arrival in all respects ready to load/discharge at an ordered port or place, a notice of readiness may be tendered during Office Hours SSHINC upon arrival at a usual waiting place at or off the port/place ordered. Notwithstanding, should the Vessel be prevented from proceeding to berth by weather, tidal conditions, or mandatory regulations, notice of readiness may be tendered as above only when such hindrance(s) has (have) ceased.

**(k) LAYTIME/DEMURRAGE**

- (1) Commencement/Resumption.
  - (i) First or sole loading and discharging port(s)/place(s). Laytime shall commence at 0800 hours local time on the next Working Day SSHINC after the date of a notice of readiness properly tendered hereunder.
  - (ii) Second and subsequent loading and discharging port(s)/ place(s), if said port(s) or place(s) agreed. Laytime or, if the Vessel is on demurrage, time on demurrage, shall resume immediately upon the Vessel's berthing at the ordered loading or

discharging port or place after tendering a proper notice of readiness or, if the Vessel cannot so enter or berth by reason of any cause beyond Owner's control, then laytime or demurrage shall resume six running hours after a proper notice of readiness tendered upon the Vessel's arrival at a usual waiting place off such port or place.

- (iii) Before laydays. Laytime shall not commence before 0800 hours local time on the commencing date identified in Box 6 unless the Charterer shall consent, in which case laytime shall commence upon Vessel's arrival in berth and count as half time as used until 0800 hours local time on the commencing date.
- (iv) Before laytime. Any time used from NOR properly tendered until commencement of laytime shall count as half-time.
- (v) After laytime. The notice time stipulated in subparagraph (ii) above shall apply irrespective of whether or not laytime shall have expired.

(2) Duration.

- (i) F.i.o.s.s. If V(o) (Loading and Discharging (F.i.o.s.s.)), V(r) (Loading and Discharging (F.i.o.s.s. With Owner Furnished Lashing Gear)), or V(s) (Loading and Discharging (F.i.o.s.s. With Owner Furnished Trailers or Gear)) applies, the laytime stipulated in Box 4, in days of twenty-four running hours weather permitting, shall be permitted free of expense to the Charterer for the purposes of loading and discharging cargo and for all other Charterer's purposes. Said laytime shall continue until the completion of: (a) loading or discharging, including as applicable all stowing, trimming, lashing, or securing (or alternatively, complete removal of the cargo from the Vessel, to include cleaning of holds); or (b) Charterer's preparation of cargo documentation, whichever is later.
- (ii) F.i.o. ex s.s. If V(p) (Loading and Discharging (F.i.o. ex s.s.)) applies, the laytime stipulated in Box 4, in days of twenty-four running hours weather permitting, shall be permitted free of expense to the Charterer for the purposes of loading and discharging cargo (to include cleaning of holds) and for all other Charterer's purposes. Said laytime shall continue until such time that the cargo is respectively either placed into, or taken from, the hold(s) of the Vessel at load-port(s) and discharge port(s).

(3) Time Excluded. Notwithstanding any other provision of this Charter Party to the contrary, time shall not count as laytime or, if the Vessel is on demurrage, as time on demurrage, or as detention, if liner terms are agreed in Box 2, if such time is spent or lost as a consequence of:

- (i) The breach of any of Owner's warranties contained in this Charter Party and not due to the fault of the Charterer, or any other breakdown, inefficiency, or any other

condition whatsoever preventing the fitness of the Vessel for the service contemplated and not due to the fault of the Charterer;

- (ii) Any negligence, deficiency, and/or default whatsoever affecting the working of the Vessel by the Owner, Master, Officers, or crew of the Vessel, including any labor dispute, labor disruption, strike, go slow, lockout, work to rule, stoppage, or restraint of labor of the Master, Officers, or crew;
- (iii) The Owner or port authority prohibiting loading or discharging, or any other mandatory regulations;
- (iv) Moving from a waiting place (even if lightening has occurred there) on an inward passage to the nominated loading or discharging port or place;
- (v) Any negligence or default whatsoever affecting the working of the Vessel by stevedores and others employed in the loading and discharging of the Vessel, including any labor dispute, labor disruption, strike, go slow, lockout, work to rule, stoppage, or restraint of labor of stevedores. This exclusion to apply only if liner terms are agreed in Box 2.
- (vi) Owner's failure to provide any documentation required by the contract (e.g. drawings or crew list).

#### (4) Half-Time

- (i) Any time excepted from laytime by Box 4 shall, to the extent used, count as half time or, should the Vessel be on demurrage, time excepted but so used shall be payable at one-half the demurrage rate.
- (ii) Should demurrage be incurred as a result of any labor dispute, labor disruption, strike, go slow, lockout, work to rule, stoppage, or restraint of labor of stevedores, tugs, or pilots, demurrage thus incurred shall be payable at one-half the demurrage rate. See III(k)(3)(v).

### (I) **CANCELLING**

- (1) Late Notice of Readiness. If a valid notice of readiness as required under this Charter Party is not tendered by 1700 hours local time on the cancelling date identified in Box 6 at the port or place ordered, the Charterer shall have the right to cancel this Charter Party at no cost to the Government. Charterer's right to cancel this Charter Party as above shall be exercised by notification to the Owner within twenty-four (24) hours after 1700 hours local time on the cancelling date identified in Box 6, should the notice of readiness not be tendered by the time Charterer makes said notification.
- (2) Declaration of Cancellation Option. If it shall become clear to Owner that the Vessel will be delayed in arrival beyond the cancelling date identified in Box 6, or changes in the

itinerary identified in Box 16, Owner may, at the earliest seventy-two (72) hours before the Vessel is due to sail for the loading port or place, but as soon thereafter as they are in a position to state a new date of readiness with reasonable certainty, the Owner shall advise the new date and itinerary, and ask Charterer whether the option of cancellation will be exercised. Charterer's option to cancel must then be declared within ninety-six (96) hours (but not later than twenty-four (24) hours after the cancelling date identified at Box 6). If Charterer shall not cancel this Charter Party upon such notice within such time limits, then, unless otherwise agreed, Box 6 shall be deemed amended such that noon on the new readiness date shall become the commencing date and noon on the third day after the new readiness date shall become the new cancelling date.

- (3) Reservation. The exercise or non-exercise by Charterer of the cancellation option shall not prejudice any claim or right which Charterer may otherwise have against Owner.

**(m) CARGO RECEIPTS**

- (1) Manifest. The Charterer shall prepare a Cargo Manifest which shall list the cargo loaded on the Vessel. The Master shall sign this Cargo Manifest in acknowledgment of the receipt of the cargo said to have been loaded by the Charterer without responsibility as to quantities, mixture, mark, number of packages, weights, etc., or the apparent condition of the cargo, it being understood that it is the Charterer's responsibility to tally the cargo and to check the condition thereof upon loading and discharging.
- (2) Charter Paramount. The terms of this Charter Party shall apply to any shipment made by the Government, whether or not bills of lading are issued.

**(n) OIL POLLUTION SPILL**

- (1) Pollution Damage. Where an escape or discharge of oil occurs from the Vessel and threatens to cause pollution damage to coastlines, Charterer may, at its option, and upon notice to Owner or Master, undertake such measures as are reasonably necessary to prevent or mitigate such damage, unless Owner promptly undertakes same. Charterer shall keep Owner advised of the nature of the measures intended to be taken. Any of the aforementioned measures actually taken by Charterer shall be at Owner's expense except to the extent that any such escape or discharge or threat was caused or contributed to by Charterer. If Owner considers such measures should be discontinued, Owner shall so notify the Charterer and thereafter neither the Charterer nor its nominee shall have any right to continue said measures under the provisions of this paragraph and all further liability to Charterer under this paragraph shall thereupon cease, except that Charterer may continue such measures at Owner's expense if Owner does not undertake reasonable measures to prevent or mitigate damages.
- (2) Reservation. The above provisions are not in derogation of such other rights as Charterer or Owner may have under the provisions of this Charter including but not limited to IV (t) (Insurance) hereof, or may otherwise have or acquire by law or any international convention.

**(o) STEVEDORE DAMAGE**

- (1) Charterer's Liability. Charterer to be responsible for any physical damage done to the Vessel by Government stevedores on loading or discharging only if such damage is occasioned by negligence, breach of warranty or breach of contract and the Master advises Charterer, or Charterer's representative, in writing, within twenty-four hours after occurrence of the specific damage, and the Master further notifies the parties who have caused this damage, in writing, and endeavors to obtain their admission of liability.
- (2) Survey. As soon as practical after such damage is sustained, the Owner is to have an independent survey made to define and estimate the damage; a written copy of the survey report is to be promptly forwarded to the Charterer.
- (3) Settlement. All claims as above are to be settled directly between the Owner and the stevedores, with the Charterer being ultimately responsible.
- (4) Liner Terms. Should liner terms be agreed in Box 2, Charterer to be free of any and all stevedore-damage liability, whosoever and howsoever caused.

**(p) TIME SHEETS**

Attachment IX (C) shall be completed and signed by Owner at ports of loading and discharging for countersignature at said ports by Charterer's representative. An executed, original Attachment IX(C) shall accompany any claim for demurrage under this Charter Party.

**(q) SAFETY IN LOADING AND DISCHARGING CARGO**

Attention of the Owner is directed to U.S. Public Law 91-596 (84 Stat. 1590, approved December 29, 1970) known as the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 et seq.) and to the standards promulgated thereunder.

**(r) DECK CARGO**

Should deck cargo be expressly stipulated in Box 2, same shall be at Charterer's risk, excepting cargo shipped in containers.

**(s) SPAIN-GIBRALTAR PROHIBITION**

Owner agrees as a condition of this contract that the vessel will not proceed to Gibraltar for any purpose for its next port call after departing a Spanish port, even if the vessel is off-hire or if the charter has concluded and the ship was redelivered to the owner in Spain. Owner also agrees as a condition of this contract that the vessel will not proceed to Spain for any purpose for its next port call after departing Gibraltar, even if the vessel is off-hire or if the charter has concluded and the ship was redelivered to the owner in Gibraltar.

**(t) PRESS RELEASE**

Owner/Offeror agrees not to issue any press releases related to the charter, post-award, pre-delivery/loading, or post-redelivery/ discharging without the approval of MSC.

**(u) RESERVED**

**(v) COMBATING TRAFFICKING IN persons (CTIP)**

Contractors are required to complete a CTIP checklist, when requested by the Contracting Officer, for the government to verify the contractor is not engaging in any CTIP prohibited activities and report dates completed to Contracting Officer or designated person.

**(w) HEALTH AND SAFETY**

Owner/Offeror agrees that crew and other embarked personnel may be ordered by the charterer to stay aboard the vessel during port visits under this charter as deemed necessary by the charterer or local government authorities. Further, the Owner / Offeror agrees that the charterer may limit access to the vessel by any shore-side personnel upon the vessel's port calls during this charter.

**(x) OWNER(S) CONSIDERATION FOR VESSEL DELAY**

Vessel owner(s) who notify the Government that a vessel is going to be late or request to modify the layday(s) after contract award, due to no fault of the Government, shall provide consideration for the delay or request.

## **PART IV. VOYAGE 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

**AR** - interchangeable with ATRS

**Assisting** - Movement of a tow, which is making use of, or which has available for use, her own propulsion

**Associated Equipment** - Construed to include all Contractor-owned and Contractor-furnished equipment, supplies, fixtures, and tackle necessary for performance under this Charter Party

**ASTM** - American Society for Testing and Materials

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

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

**Cancelling Date** - Identified in Box 6 of Part I

**Cargo** - Identified in Box 2 of Part I in DRYVOY and TANKVOY

**Cargo Manifest** - Charterer-issued DD Forms 1385 and 1386, or substitutes.

**CEC** – Contractor Establishment Code

**CFE** - Contractor-Furnished Equipment

**CFR** - Code of Federal Regulations

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

**Charter Hire** – Daily rate paid for use of the vessel during the charter; interchangeable with Hire Rate and Per Diem.

**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

**CLC** - Convention on Civil Liability for Oil Pollution Damage, 1969

**CLIN** - Contract Line Item Number

**COA** - Contract of Affreightment; interchangeable with "Contract" and "Charter Party" and "master solicitation" as defined at FAR 15.205(b)

**COGSA** – Damage of Goods by Sea Act. 46a U.S.C. Chapter 28

**Commencing Date** - Identified in Box 6 of Part I

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

**COMSCINST** - COMSC Instruction

**Contract** – Interchangeable with "Charter Party"

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

**Contractor** - Interchangeable with “Owner”

**CONUS** – Continental United States. Consists of 48 contiguous states and Alaska.

**COR - Contracting Officer's Representative (DFARS 202.101)** - 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.

**Crew** - Of the Vessel identified at Box 8

**CS** – Contractor Security

**Cu ft** - cubic foot [1 cubic foot equal 0.028317 cubic meter]

**DD 250-1** - Tanker/Barge Material Inspection and Receiving Report

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

**DoD** - U.S. Department of Defense

**DWT** - Deadweight Tonnage (Owner's account for any and all costs to meet port restrictions)

**ETA** - Estimated Time of Arrival

**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)

**FHEX** - Fridays, U.S. Government holidays, and holidays observed at the port (whether national or local) to be excluded from the time computation. See SSHEX.

**FHINC** - Fridays, U.S. Government holidays, and holidays observed at the port (whether national or local) to be included in the time computation. See SSHINC.

**F.I.O.** - Free in and out

**F.I.O. ex S.S.** - Free in and out except for stowage and securing (see DRYVOY V(p))

**F.I.O.S.S.** - Free in and out stowed and secured (see DRYVOY V(o))

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

**FPCON** – Force Protection Condition

**Freight** - Identified in Box 19 of Part I in TANKVOY and DRYVOY to include any additional cost incurred in meeting port restrictions

**Ft.** - Foot/feet [1 foot equals 0.3048 meter]

**Full Cargo** - That quantity not exceeding what the Vessel can reasonably stow and carry as further defined at III(f) (DRYVOY and TANKVOY); with reference to Box 17 (DRYVOY) or Box 18 (TANKVOY), Charterer's obligation to furnish and Owner's obligation to load a Full Cargo as above, which may be further subject to stipulated minimum and maximum values or an optional margin, in which latter case, Charterer's and Owner's obligation is set at a Full Cargo or the stated minimum, whichever is the lesser

**Full Operational Status (FOS)** - 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 IV(q) (Reduced Operational Status (Lay-up) in DRYTIME and TANKTIME))

**FY** – Fiscal Year. 1 October to 30 September.

**GFP** - Government-Furnished Property

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

**Government Designated Representative** - Including, but not limited to, force protection personnel, military, government employees, and government contractors

**GSV** - Gross Standard Volume as defined by API Standard, that is, the total volume of all petroleum liquids and “sediment and water” (excluding free water), as corrected by various factors

**hp** - horsepower [1 hp equals 0.745799 kW]

**IMDG** – International Maritime Dangerous Goods Code

**IMO** - International Maritime Organization

**In.** - Inch(es) [1 inch equals 25.4 mm/2.54 cm]

**In-transit loss** - The difference in the TCV at 60 degrees Fahrenheit, as measured aboard the Vessel after loading at the load port or place and before unloading at the first discharge port or place

**ITOPF** – International Tanker Owners Pollution Federation Limited

**kg** - kilogram [1 kg equals 2.20 pounds]

**km** – kilometers

**kPa** - kiloPascal [1 kPa equals 20.886 psf]

**kW** - kilowatt [1 kW equals 1.34 horsepower (hp)]

**LASH** - Lighter-Aboard-Ship Vessel type

**Laydays** - The span of Commencing and Cancelling dates identified in Box 6

**Laytime** - The period of time agreed in Box 4 in DRYVOY during which the Owner will make and keep the Vessel available for loading and discharging the cargo and for all other Charterer's purposes without payment additional to the freight

**Lb** - Pound [1 pound equals 0.453592 kg]

**Liner Terms** - See DRYVOY V(q)

**LOA** – Length Overall

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

**LT** - Long ton, of 2,240 pounds weight [1 long ton equals 1.016047 metric tons]

**m** - meter [1 meter equals 3.28 feet]

**m<sup>2</sup>** – square meter [1 square meter equals 10.764 square feet]

**m<sup>3</sup>** - cubic meter [1 cubic meter equals 0.883 measurement tons/35.314 cubic feet]

**MarAd** - U.S. Department of Transportation, Maritime Administration

**Master** - Of the Vessel identified in Box 8 of Part I

**Maximum Cargo** - Unless otherwise noted, the greater tonnage identified in Box 2 (DRYVOY and TANKVOY); should a margin ("plus or minus") be identified with the cargo tonnage, "Maximum Cargo" shall be considered to be the greatest quantity of cargo calculable from such margin

**Minimum Cargo** - Unless otherwise noted, the lesser tonnage identified in Box 2 (DRYVOY and TANKVOY); should a margin ("plus or minus") be identified with the cargo tonnage, "Minimum Cargo" shall be considered to be the least quantity of cargo calculable from such margin

**mm** - millimeter [1 millimeter equals 0.039 inch]

**Moderate Weather** - Conditions up to sustained winds of Beaufort Force 5 and sea state 4 (any day during which sustained winds of Beaufort Force 5 or above are encountered for more than six hours shall not be considered a “moderate-weather” day for purposes of fuel or speed warranties made under this Charter)

**MOL** - More or Less

**MOLCHOP** - More or Less at Charterer's Option

**MOLOO** - More or less at Owner's option

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

**MT** - Metric Ton

**MTon** - Measurement ton (40 cubic feet volume)

**NM**- Nautical Miles

**NMCARS** - Navy Marine Corps Acquisition Regulation Supplement

**NOR** - Notice of readiness (see DRYVOY III(j) or TANKVOY III(j))

**Notice Time** - Free time allowed prior to the commencement or resumption of laytime or, if the Vessel is on demurrage, prior to the resumption of demurrage (see DRYVOY III(k) or TANKVOY III(k))

**OCIMF** - Oil Companies International Marine Forum

**OCONUS** – Outside Continental United States

**Office hours** - from 0800 hours until 1700 hours local time on a Working Day

**OO** - Owner's option

**Owner** - That entity exercising commercial control of the Vessel identified in Box 8; 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** - Maritime Protection and Indemnity Insurance

**Part Cargo** - With reference to Box 17 (DRYVOY) or Box 18 (TANKVOY), Charterer's obligation to furnish and Owner's obligation to load a specified quantity of cargo, which may be further subject to stipulated minimum and maximum values or an optional margin

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

**Place** - Any berth, dock, anchorage, or 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 [1 psf equals 0.0478803 kPa]

**QAR** - Quality Assurance Representative; interchangeable with "Charterer's inspector" and "Charterer's representative"

**Readiness** – See DRYTIME or TANKTIME IV(i)

**RFP** - Request for Proposals; interchangeable with "solicitation"

**R.O.B.** - Material remaining onboard as defined by API Standard, that is, the water, oil, slops, oil residue, oil/water emulsions, sludge, and sediment in Vessel tanks, void spaces, and/or pipelines after discharge

**RO/RO** - Roll-On, Roll-Off loading and discharging process

**SDWT** - Deadweight capacity, to assigned summer mean draft

**SHEX** - Sundays, U.S. Government holidays, and holidays observed at the port (whether national or local) to be excluded from the time computation with the following time so excluded:

- (a) from 1700 hours local time on Saturday until 0800 hours local time on the following Monday, except in countries where Friday is the recognized weekly day of rest (where time from 1200 hours local time on Thursday until 0800 hours local time on the following Saturday will be excluded);
- (b) from 1700 hours local time on the day preceding a holiday until 0800 hours local time on the following working day.

**SSHEX** - Saturdays, Sundays, U.S. Government holidays, and holidays observed at the port (whether national or local) to be excluded from the time computation, with the following time so excluded:

- (a) from 1700 hours local time on Friday until 0800 hours local time on the following Monday, except in countries where Friday is the recognized weekly day of rest (where time from 1200 hours local time on Thursday until 0800 hours local time on the following Saturday will be excluded);
- (b) from 1700 hours local time on the day preceding a holiday until 0800 hours local time on the following working day.

**SHINC** - Sundays, U.S. holidays and holidays observed at the port (whether national or local) to be included in the time computation. See SSHINC.

**SSHINC** - Saturdays, Sundays, U.S. Government holidays, and holidays observed at the port (whether national or local) to be included in the time computation, with time counting:

- (a) from 1700 hours local time on Friday until 0800 hours local time on the following Monday, except in countries where Friday is the recognized weekly day of rest (where time from 1200 hours local time on Thursday until 0800 hours local time on the following Saturday will count);
- (b) from 1700 hours local time on the day preceding a holiday until 0800 hours local time on the following working day.

**SOLAS** – Safety of Life at Sea

**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 (1 metric ton equals 0.9842064 long ton)

**Tanker Loading Reports** - Charterer-issued cargo manifests, to include DD Form 250-1

**TCV** - Total Calculated Volume as defined by API Standard, that is, GSV plus free water

**TEU** - Twenty-foot equivalent unit (container volume measure)

**TIN** - Taxpayer Identification Number

**USCG** – United States Coast Guard

**USD** - U.S. dollars

**VEF** - Vessel Experience Factor as defined by API

**Vessel** - Identified at Box 8

**VISA** – Voluntary Intermodal Sealift Agreement

**Voyage** - Identified at Boxes 3 and 5 (DRYVOY) or Boxes 3 and 4 (TANKVOY)

**WOG** - Without guaranty

**Worldscale** - interchangeable with “WS”

**WS** - New Worldwide Tanker Nominal Freight Scale, code name “New Worldscale,” (as revised and current as of the Charter Party Date, jointly sponsored and issued by the Worldscale Association (London), Ltd. and Worldscale Association (NYC), Inc.

(b) **ICE**

- (1) General. 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.
- (2) Responsibilities. If a nominated port or place 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 being frozen in at any nominated 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. If such nominated port or place in question is:

- (i) the first or only loading port or place and no cargo has been loaded, Charterer shall have the option of nominating an alternative loading port or place, or of cancelling this Charter Party;
- (ii) the first or only loading port or place and cargo has been loaded, or any subsequent loading port or place, Charterer shall have the option of nominating an alternative loading port or place, or of ordering the Vessel to proceed on the voyage without completing loading, paying any deadfreight so incurred;
- (iii) a discharging port or place, Charterer shall have the option of nominating an alternative discharging port or place, or of ordering the Vessel to wait at a safe port or place off the nominated port until it can safely be entered.

(3) Consequences. If in the exercise of Charterer's rights under this paragraph:

- (i) the Charter Party is cancelled, time lost during the period from when the request for revised orders was received by Charterer, or from the time when the Vessel arrived and gave notice of readiness (whichever is earlier), until the time when Owner received notice of such cancellation shall count as laytime; further, the cost of any fuel consumed during said period to be reimbursed at the market price where and when bunkers are next taken, less the value of the Vessel's in-port bunker consumption during said period;
- (ii) the loaded voyage is changed, freight shall nevertheless be payable in accordance with III(a) (Freight) above, but increased or reduced to compensate for the increase or reduction in voyage costs. Such increase or reduction in voyage costs shall be calculated by reference to: (a) the change in voyage time (valued as time on demurrage; and to include any time awaiting revised orders); (b) the change in bunkers consumed (valued as provided at subparagraph (i) above); and (c) the change in port charges incurred;
- (iii) the Vessel discharges at the nominated discharging port or place, this shall be at Charterer's risk, and the whole period from the time the Master's request for revised orders was received by Charterer until the Vessel can safely depart after completion of discharge shall count as laytime.

#### (c) QUARANTINE

If at the time of nomination quarantine is in force at a nominated port or place of loading or discharging, any time thereby lost by the Vessel shall count as laytime or, if the Vessel is on demurrage, as time on demurrage. If, however, quarantine comes into force at such port or place after its nomination, only one-half of the time thereby lost by the Vessel shall count as laytime, except that all time so lost shall be counted as demurrage if the Vessel is on demurrage upon its arrival in such port or place.



**(d) GENERAL AVERAGE**

General average shall be adjusted, stated and settled according to the York-Antwerp Rules 2004, and 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 converted into United States Dollars at the exchange rate prevailing in the United States on the date made and allowances for damage to cargo claimed in foreign currency shall be converted into United States Dollars at the exchange rate prevailing on the last day of discharge of such damaged cargo from the Vessel. Notwithstanding the foregoing, the Charterer's contributions in general average shall in no event exceed three times the Owner's contribution for any single general average incident.

**(e) DEVIATION**

The Vessel shall have liberty to sail with or without pilots, to tow or to be towed, to go to the assistance of vessels in distress, and to deviate for the purpose of saving life or property or of landing any ill or injured person on board. Any salvage shall be for the sole benefit of the Owner.

**(f) AGENTS**

The Owner shall appoint, direct, and pay Vessel's agents at all ports visited. A Statement of Facts at end of each day shall be submitted each day for that port call including a final SOF and estimated laytime calculation for that port. Preferred format would be in excel or similar electronic means. After appointment, owner shall provide agents full contact information to MSC for operational information and operational coordination.

**(g) SUBCHARTER**

The Charterer shall have the right, without the prior written consent of the Owner, to subcharter or agree to subcharter the Vessel under any form of time or voyage charter. If Charterer shall enter into any such charter, Charterer shall nevertheless remain responsible for performance of this Charter. Any such subcharter shall include a provision that it is subject to the provisions of this Charter.

**(h) WAR**

(1) Requirement. 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 the 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 the 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, the 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 the Owner as a consequence of service under this Charter Party, except that no additional costs for wages or insurance shall be payable by Charterer if such additional costs were known or should have been known by Owner at the time that Final Proposal Changes were due, or in the case of awarding off initial offers, when initial offers were due. In such a case, paragraphs (2), (3) and (4) of this Article (h) shall not be applicable.

- (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 in 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 MSC in the same 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 in 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 to the extent provided in section (h)(5). 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, Piracy, Terrorism and Related Perils Listed 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 (3) with twenty-four hours notice in which case (i) V(e) (Voyage Charter War Risk Coverage) shall automatically be effective in such area; 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 areas consistent with Boxes 3 and 5 herein.
- (5) Owner must immediately notify Charterer of any changes in the Vessel's commercial war risk insurance, including but not limited to, changes to war, piracy, terrorism and related perils listed areas and/or increases in commercial war risk insurance premia. After giving notice, Owners must secure Charterer's permission prior to entry into any commercial

war risk Listed Areas before incurring liability for additional premia. Prior notice to Charterer and Charterer's permission are conditions precedent to reimbursement of additional premium costs and associated taxes.

**(i) SUBSTITUTION**

The Owner may at any time propose to substitute a vessel of substantially the same characteristics as the Vessel identified at Box 8, for services under this Charter Party. Said substitution, if proposed, shall be at the sole discretion of the Contracting Officer and at no additional cost to the Government.

**(j) LAW GOVERNING**

This Charter Party shall be governed by the laws of the United States.

**(k) NOTICE OF ETA**

Upon commencing the voyages to either the loading or discharging ports, Master shall advise Charterer by electronic-mail of Vessel's expected date and time of arrival. Further, and provided the length of the voyage permits, the Master shall confirm or amend such advice by electronic-mail 72, 48, and 24 hours prior to Vessel's arrival at the loading and discharging ports.

**(l) REIMBURSABLE SUPPLIES AND SERVICES (CHARTERS)**

(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.
- (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 Reimbursables 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 Reimbursables CLIN by a sufficient amount to cover the change order.

**(m) SPECIAL REQUIREMENTS**

- (1) Force Protection/Supercargo: Notwithstanding any restrictions in this charter party to the contrary, Owner agrees to the embarkation of up to 12 armed force protection personnel as provided for under the Force Protection clause. In the event complying with this requirement exceeds the Vessel's Certificate of Inspection (COI), Owner agrees to make reasonable efforts to obtain within two business days of award, all appropriate waivers so as to allow the Vessel to carry such additional personnel. If Owner is unable to obtain the necessary waivers, Charterer shall have the option to cancel this Charter at no cost to the Government. The option to cancel shall be declared not later than 24 hours after the expiration of the aforementioned two-day period. The cost of any additional lifesaving equipment shall be for Owner's account.
- (2) Should the selected vessel already have commercial cargo loaded aboard, the vessel carrier must provide a detailed stow plan with cargo stowage locations and the order of vessel ports of call within the established timeframes.
- (3) The cargo must be loaded last on and discharged first off.
- (4) Vessel is required to have lashing points and provide all lashing gear. Lashings to be patent chain and binder lashings.
- (5) Ship Drawings. Owner shall provide detailed ship drawings suitable for the preparation of stow plans no later than 48 hours after award. Include any unusual obstructions of characteristics not readily discernable from deck drawings. Owner shall provide detailed diagrams of the vessel deck no later than 72 hours prior to arrival at the designated load port. If award is made within 72 hours prior to arrival at designated loading port, plans of the vessel deck will be made available no later than 24 hours prior to arrival. If part cargo, owner shall advise as to the exact space available. Owner is to identify any issues regarding HAZMAT stowage or IMO restrictions.
- (6) Contact Information: Within 48 hours of award, provide Full Style of vessel and vessel's owners/operators, and load/discharge port agents' contact information.
- (7) Intended Voyage Charter: Provide the vessel's intended voyage schedule for all cargo loading and discharge ports.

**(n) STATUTORY EMPLOYEE**

Pursuant to Louisiana Revised Statutes (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.

**(o) RESERVED**

**(p) IN-TRANSIT VISIBILITY**

- (1) MSC has may implement a fully automated satellite tracking system for the purpose of providing In-Transit Visibility (ITV) of its Vessels. To support this system, the Owner's Vessel shall be equipped with an INMARSAT-C Terminal with GPS input.
- (2) Prior to delivery of the Vessel, the Owner shall provide to the Charterer the make and model of the INMARSAT-C terminal, its registered identification number, and the specific satellite (POR, AORE, AORW, or IOR) on to which it is currently logged. Once this information is received, MSC technicians will remotely communicate with the terminal to activate reporting. When no longer required, MSC technicians will stop the terminal from reporting. The Owner shall provide MSC technicians with assistance as required to activate and maintain reporting.
- (3) The cost of reporting shall be included in the fixed price of this Charter.

**(q) SECURITY THREAT**

In the event of a security threat or incident involving the Vessel, crew or cargo during the voyage, the Vessel's Master shall report any incident immediately to the cognizant MSC Area Command in whose area the Vessel is currently located. The MSC Command Center should be contacted if the cognizant Area Command cannot be reached. Contact numbers will be provided upon award.

**(r) MSC SHIPBOARD ANTITERRORISM/FORCE PROTECTION MEASURES**

- (1) The Owner agrees that the time or voyage chartered vessel will be under the tactical control of an MSC Area Command. Extended period time charters will follow Navy OPREP reporting requirements. The Area Commander will advise the Master of the Vessel of the applicable Force Protection Conditions (FPCON) and security measures he is required to implement.
- (2) The Owner agrees that while under charter, U.S. Armed Forces personnel may board the Vessel at any time at any location for U. S. national security purposes, gives consent for such boarding, and agrees to cooperate fully with such U.S. Armed Forces personnel in the boarding party. The Owner also agrees to permit U.S. Armed Forces personnel to search without limitation any and all vessel spaces for U.S. national security purposes.
- (3) The Charterer reserves the right, at the Charterer's sole option, to embark armed U.S. Armed Forces personnel at any time during the period of this Charter to protect U.S. Armed Forces personnel, cargo or equipment onboard the Vessel, or to protect the Vessel itself. These force protection personnel will provide security in accordance with rules of engagement established by competent U. S. military authorities and will operate under the command of such authorities. The Owner shall provide accommodations and

victualling for these embarked personnel. The Charterer shall reimburse the Owner for all expenses relating to the embarkation force protection personnel as provided in this Charter for Supercargo.

- (4) The Owner agrees to render all necessary assistance to U.S. Armed Forces personnel with respect to the identification and screening of crewmembers or such others as may be aboard the Vessel. The 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 U.S. Armed Forces personnel. The Owner agrees to replace any such crewmembers promptly and that such replacements will fully comply with all crew screening requirements. The Charterer agrees to reimburse the Owner for the reasonable costs directly incurred by the Owner with respect to such replacements.
- (5) The Owner agrees to comply with the current vessel physical security measures required by relevant MSC Force Protection instructions or other security-related directions from MSC or U.S. military authorities for the threat condition of the area. This may include turning off the Automatic Identification System and Long Range Identification and Tracking system onboard the Vessel, or adopting other security measures. Additionally, the Owner of chartered vessels will comply with and implement the requirements of MSC's current SHIPBOARD ANTITERRORISM/FORCE PROTECTION (AT/FP) PROGRAM instruction, COMSCINST 5530.3 Series, as revised, incorporated herein by reference.
- (6) The Owner agrees to comply with responsibilities addressed in "shipboard military force protection detachment authority to use force" contained in ALMSC 009/03 message. This message includes respective responsibilities of the Vessel Master and Mission Commander of the embarked security team. The Charterer, through the cognizant MSC Area Command, will provide a copy of this message and MSC N3 Force Protection compliance outline memorandum dated 29 October 2008 to the Vessel during the delivery inspection, if applicable, or as requested.
- (7) The Owner agrees that the Master and Embarked Security Team Mission Commander/Tactical Supervisor on watch shall work together to implement force protection measures. The Master will ensure that the Tactical Supervisor is aware of ship maneuvers. The Master shall be available to receive reports by the Tactical Supervisor of the tactical force protection picture to allow the Master to maneuver his vessel so as to best protect his vessel and crew.
- (8) The Owner agrees that the Master will participate in any embarked security team mission brief that may be given upon embarkation of the Mission Commander.
- (9) The Owner agrees to immediately report all FP incidents, warning shots, firing of flares, and disabling fire to the cognizant MSC Area Command. In addition, all force protection threats, actions, and incidents will be entered into the vessel's deck log or Force Protection journal as applicable.

- (10) The Owner agrees that the Vessel will have an operational internal announcing system and hand-held megaphone.
- (11) For time charters, the Charterer, through the cognizant MSC Area Commands, will provide copies of MSC SHIPBOARD ANTITERRORISM/FORCE PROTECTION (AT/FP) PROGRAM, COMSCINST 5530.3 series and the MSC STANDARD OPERATING MANUAL, COMSCINST 3121.9 series during the delivery inspection.

**(s) SALVAGE**

- (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.

**(t) INSURANCE**

- (1) Requirement. During the period commencing with the first loading and terminating with the final discharge of the Vessel, the Owner shall have in place marine insurance coverage on the Vessel including Hull and Machinery, Protection and Indemnity (P&I), War Risk Hull and Machinery including P&I and, if U.S.-flagged, Second Seamen's War Risk Policy. Owner shall, when requested, furnish a Certificate of Insurance evidencing required coverage. Except as otherwise provided in this Charter Party, the Owner shall be responsible for the cost of such insurance, including deductibles, premia, additional premia, calls, commissions, advancements, assessments, and overspill claims where applicable.
- (2) Trading Limits. Trading limits of the vessel shall be worldwide. If Vessel is sent beyond the limits of American Institute Trade Warranties or Institute Warranties (as applicable to



Owner's coverage) 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 Charterer's 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 by operation of law. Any amount due Owner under IV(t) (Insurance) shall be subject to setoff by Charterer to the extent of any recovery under any insurance carried by the Owner.
- (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 on all applicable insurance policies. All cost of such insurance, including but not limited to deductibles, premia, additional premia, calls, commissions, advancements, assessments, and overspill claims where applicable, shall be for Owner's account. Owner agrees to make claims against insurers for losses or damages covered by insurance regardless of Charterer fault, action or omission, and Owner will pay all costs and deductibles associated with such claims.

#### **(u) MILITARY EXTRATERRITORIAL JURISDICTION**

Upon award of this Contract, the Contractor shall immediately notify all contractor personnel, who are or who will be employed by, or who are or who will be accompanying, United States Armed Forces outside the continental United States (OCONUS), and who are not a host country national ordinarily resident in the host country, that such personnel, and any dependents residing with such personnel, who engage in conduct OCONUS that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States as required by the Military Extraterritorial Jurisdiction Act of 2000, Pub. L. 106-523, 114 Stat. 2488, codified at 18 U.S.C. 3261 – 3267, as implemented by DoD Instruction 5525.11, "Criminal Jurisdiction over Civilians Employed by or accompanying the Armed Forces outside the United States."

#### **(v) SUPERCARGO AND GOVERNMENT DESIGNATED REPRESENTATIVES**

- (1) Charterer's Option. The Charterer shall have the right to assign supercargo (supercargo as used herein is both plural and singular) and other Government designated representatives aboard the Vessel for duty purposes to the extent that accommodations and United States Coast Guard certification (when applicable) allow and in accordance

with COMSC Instruction 3121.9 Series. The Charterer shall pay an amount of \$30.00 per day, per person, covering all expenses including accommodations and victualling. The Owner shall victual U.S. Government designated representatives, pilots, and Customs Officers when authorized by the Charterer at \$7.00 per meal. The Government particularly reserves the right to put a representative onboard the Vessel, with the pilot, at the approach to a discharge port (or otherwise as mutually agreeable) to inspect the Vessel and to monitor the unloading; reimbursement for accommodations and/or victualling is to be as described above.

- (2) Military Personnel. In addition to the carriage of personnel noted in subparagraph (1) above, the Charterer shall have the right to assign other military personnel aboard the Vessel. Such personnel are not to require victualling or berthing facilities from the Vessel unless requested by the military commander aboard, in which case the Owner will be reimbursed out-of-pocket expenses not to exceed the amount per person per day set forth in subparagraph (1) above. The Owner shall provide sufficient lifesaving equipment for such personnel in accordance with SOLAS and all other applicable regulatory requirements.
- (3) 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 supercargo or Government designated representatives in the embarkation, carriage, or debarkation of supercargo or Government designated representatives to the extent such loss or damage is not payable under the Vessel's insurance policies. However, the Charterer shall not be liable for such damage unless written notice specifying such damage and, if obtainable, the name of the party or parties causing such damage shall have been given to the Charterer or its authorized representative within a reasonable time.
- (4) Owner Conditions Not Authorized. The owner shall impose no additional conditions or requirements beyond those contained in this contract on supercargo or government personnel who are aboard the vessel in the conduct of their duties. Under no circumstance shall the owner require supercargo or other government personnel to execute any type of waivers or indemnity agreements as a condition of their presence aboard the vessel.

(w) **RESERVED**

(x) **CONTRACTOR'S NOTICE REGARDING LITIGATION.**

The Contractor shall provide the Contracting Officer with immediate notice of any legal action, or claim against the Government, the Vessel, the Contractor, or the Contractor's underwriters that arises from or is related to this contract. The Contractor shall also provide the Contracting Officer with immediate notice of any legal action brought by the Contractor that arises from or is related to this contract.

**PART V. DRY CARGO VOYAGE ADDITIONAL CONTRACT REQUIREMENTS (AS APPLICABLE) (addendum to FAR 52.212-4).**

Unless specifically referenced in Box 7, the paragraphs that follow do not apply to this Charter Party:

**(a) POSITION REPORTS**

Upon commencing the voyages to either loading or discharging ports, the Owner shall advise both Charterer and military terminal authorities at loading and discharging ports (as applicable) of the Vessel's position and expected date and time of arrival. Vessel must meet all MSC requirements for reporting. Vessel shall provide position/status reports in-port and at-sea every six (6) hours daily at 0000, 0600, 1200, and 1800 hours local Washington, DC time (GMT-5 EST/GMT-4 EDT) and 72/48/24/12 hr pre-arrival notifications for all ports to Area Command and COMSC PM52. Position reports shall be issued by electronic mail to the following addresses:

[HQCargo@navy.mil](mailto:HQCargo@navy.mil), [mschq.bwc.fct@navy.mil](mailto:mschq.bwc.fct@navy.mil), and other addressees requested by MSC and MSC Area Commands.

**(b) RESERVED**

**(c) TUGS AND BARGES**

- (1) Construction. All references in this Charter Party to "Vessel" shall be deemed to refer to the Tug and Barge chartered hereunder, unless the context clearly precludes such a reading.
- (2) Affreightment. This Charter is deemed to be for the purpose of affreightment and is not a towage contract.
- (3) COGSA. COGSA shall apply to this Charter as specified at II(j) (Risk of Loss). A barge will not be deemed a "package" thereunder. All cargo in barges will be deemed stowed underdeck for purposes of application of COGSA.

**(d) DEVIATION FOR BUNKERS**

The Vessel shall have the liberty as part of the Contract voyage to proceed to any port or ports at which bunker fuel is available for the purpose of bunkering at any stage of the voyage whatsoever, whether such ports are on or off the direct and/or customary route or routes between any of the ports identified in Boxes 3 and 5, and the Vessel may there take bunkers in any quantity in the discretion of the Owner and even to the full capacity of the fuel tanks and deep tanks and any other compartment in which fuel can be carried, whether such amount is or is not required for the chartered voyage.

**(e) VOYAGE CHARTER WAR RISK COVERAGE**

Under the authority of 46 U.S.C. APP 1285, the U.S. Maritime Administration (MARAD) 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 or on date specified in the solicitation, 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: (A) one-hundred fifty percent of the hull value stated in Vessel's current commercial hull policy effective on Charter Party date or on date specified in the solicitation; or (B) 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 or on date specified in the solicitation;
- (3) War Risk Blocking and Trapping Coverage;
- (4) War Risk Second Seamen's Coverage, the principal sum of which shall be USD 200,000 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 1,500 per month. 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 200,000 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 or on date specified in the solicitation. 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.

**(f) NATURE OF CONTRACT (COA)**

Under this COA, Charterer undertakes to provide for shipment and Owner undertakes to transport the cargo described in Box 2 between those ports identified in Boxes 3 and 5, over the period identified in Box 69. Each voyage conducted under this COA shall be deemed conducted pursuant to a separate, single-voyage charter with terms as stipulated herein.

**(g) VESSEL NOMINATION/AGE RESTRICTION (COA)**

- (1) Requirement. Owner shall nominate vessels from among those identified in Box 68, subject always to IV(i) (Substitution). No Vessel shall be nominated which shall, at the time of its nomination, be in excess of 30 years old.
- (2) Notice. Owner shall provide Charterer with written nomination of vessels performing hereunder at least seven running days prior to each respective commencing date.

**(h) CANCELLING (COA)**

- (1) Charterer's Rights. Charterer's cancellation option described in III(1) (Cancelling) shall affect the voyage in question only. However, should any two voyages be cancelled in accordance with III(1) (Cancelling), Charterer shall upon the third or any subsequent cancelled voyage have the option to cancel this Contract of Affreightment at no cost to the Government. Any exercise or nonexercise of Charterer's cancellation option as aforesaid shall not be construed in derogation of any future right to cancel this Contract of Affreightment or to take any other action authorized hereunder or by law.
- (2) Cargo Quantity. Should any voyage be cancelled in the exercise of Charterer's rights under this Contract of Affreightment, the corresponding quantity of cargo shall be deducted from the outstanding balance. However, should said cancellation result from an incident within the Owner's control, the Charterer shall have the option to postpone the cancelled voyage within the period of this Contract of Affreightment by notice thereof to Owner not later than ten running days after said cancellation.
- (3) Renomination. Should Charterer reject any nominated vessel in the exercise of its rights under this Contract of Affreightment, Owner shall, at Charterer's option, nominate another Vessel from among those identified in Box 68 or in accordance with IV(i) (Substitution). Upon rejection, Charterer may at its sole discretion, however, deem a particular voyage cancelled in accordance with the terms of this Charter without permitting any renomination by Owner.

**(i) OVERAGE (COA)**

Overage, if any, shall be reckoned on the basis of the maximum cargo quantity designated for the full term of this COA.

**(j) CONTRACTOR SECURITY (CS)**

This contract language is activated when specifically called out in the RFP. Even when activated, CS may only be necessary during a portion of the contract as determined by the USG and the RFP. In instances where CS necessary for the entire PoP, “award” shall refer to the award of the contract by MSC; in instances where CS is necessary only for portions of the mission’s PoP, “award” shall refer to the award of the subcontract by the prime contractor. The cost of the team for the period annotated in Part V(f)(3), shall be included in the fixed price. In the event of emergencies and in response to worldwide events, all contractors, regardless of callout in the original RFP, may be required to provide CS when so directed by the USG.

1. **CONTRACTOR SECURITY.** The Government requires the Contractor to furnish armed Contractor Security (CS) with a minimum of four (4) persons, as follows:
  - a. Each individual shall, at a minimum:
    - i. Be armed with one semi-automatic or automatic rifle of 5.56 or 7.62 caliber and a minimum of 500 rounds of military-style full metal jacket ammunition. Included in the ammunition amount should be tracer ammunition for use in support of firing warning shots. See NTRP 3-07.2.2 Weapons Handling Procedures and Guidelines, Ch. 2, 4, 6, and 7 for weapon specification requirements (can be provided upon request). Be armed with one shotgun with a minimum of 20 rounds of appropriate ammunition for use against small Unmanned Aerial Systems (UAS).
    - ii. Meet the weapons qualifications contained OPNAVINST 3591.1 series or its equivalent.
  - b) The team shall have a minimum of two (2) laser dazzler devices to warn away or deter manned threats, e.g. small boats, small aircraft, helicopters, etc.
  - c) All team members must possess a current TWIC, or have successfully completed a terrorism check (Terrorism Screening Database) by the U.S. Government or commercial equivalent.
2. Contractor shall provide the security support necessary to ensure mission performance. CS shall, at a minimum, perform the following:
  - a. Prevent any Visit, Board, Search or Seizure (VBSS) force, of as many as 15 personnel, from boarding the vessel by any means, to include but not limited to, a helicopter assault.
  - b. Defend the vessel against pirates or terrorists who may use 2 to 20 small vessels simultaneously attacking both sides of the vessel and may be armed with automatic weapons and rocket propelled grenades.
  - c. Defend the vessel against suicide-bomber attacks by manned or remotely piloted small vessels laden with improvised explosive devices.
  - d. Defend the vessel against remotely piloted or GPS-controlled small UAS suicide-bomber attacks.

- e. Defend the vessel against any other attack designed to steal or sabotage the vessel, its cargo, or cause death or serious bodily harm of its crew or supercargo.
3. The team shall be onboard during the duration of the portion of the voyage(s) specified in Box 7. Contractor WILL PROVIDE approved firearms and ammunition for the CS as described in paragraph 1(a) above (as well as any body armor, tactical communications systems, or protective equipment for their use), and is responsible for delivery to and retrieval from the Vessel of these items. Contractor will provide berthing and victuals for the CS in accordance with the terms of this Contract. The presence of an Embarked Security Team (EST) aboard the ship at the same time as a CST does not eliminate the contractual obligations herein. If the USG decides to embark an EST, the EST will assume the lead on force protection duties, and the CST will be subordinate to their direction, through the Master, to include disarming and stowing their weapons, if required.
  4. DOCUMENTATION REQUIREMENTS AND TIMELINE. The following timeline will be adhered to by all parties for the provision of notifications and documentation:
    - a. Not later than four (4) working days after award, or notification by the MSC KO/COR that CS is required, the contractor shall provide the following for review/approval by the Government:
      - i. A statement of Certification and Warranty that:
        1. Security Contractor possesses a valid certification under International Standard ISO 28007, Ships and Marine Technology — Guidelines for Private Maritime Security Companies (PMSC) Providing Privately Contracted Armed Security Personnel (PCASP) On Board Ships.
        2. CS team members possess a current TWIC card or has undergone a terrorism check (Terrorist Screening Data Base) by the U.S. Government in accordance with the current version of USCG Port Security Advisory 5-09.
        3. Firearms that the CS team will bring onboard the vessel meet the Government 's requirements in para. 1 above.
        4. Only military-style full metal jacket ammunition will be supplied to and used by the CS.
        5. All CS team members have met the qualification requirement in para. 1(a)(iii) above and will sign a CS Acknowledgment (below) prior to embarkation.
      - b. Upon request, Contractor shall provide the Contracting Officer (KO) / Contracting Officers Representative (COR) with substantiating documentation the Contractor has met its contractually obligated standards, e.g., list of weapons, ammunition, and qualifications for the CS, list of CS personnel assigned (including full name and TWIC number or documentation of terrorism screening in accordance with para. 1(c)) for Quality Assurance purposes within seven (7) days.
      - c. Contractor is responsible for the secure transmission of any personally identifiable information (PII). Questions should be directed to the Contracting Officer or the COR.
  5. PERMISSION FROM VESSEL'S FLAG STATE (NON-U.S. FLAG). The Contractor will warrant in its proposal that it has confirmed with the Vessel's flag state (for a flag other than the U.S.) that embarkation of an armed CS for the purposes stated in the Contract does not violate flag state law. Once so warrantied, the Contractor shall hold harmless the USG for

any violations of local or flag state law or international treaties required by contract performance. The inability of a CS team to perform the contractual duties may result in non-compliance for purposes of proposal evaluation or a breach of contract terms during performance.

6. RULES FOR USE OF FORCE & LEGAL COMPLIANCE. When using force, to include deadly force, CS personnel will at a minimum comply with the use of force rules found in:
  - a. Current version of DoD Directive 5210.56, ARMING AND THE USE OF FORCE (particularly enclosure 2 thereto);
  - b. Current version of SECNAV Instruction 5500.37, ARMING AND THE USE OF FORCE; and
  - c. Current version of ALMSC Message, Subject: RULES FOR THE USE OF FORCE BY MSC MARINERS.

The Contractor shall request copies of the above guidance from the Contracting Officer if they do not have it. Contractor shall immediately report any discharge of weapon(s) or use of force by CS personnel to the ship's Master, Contracting Officer, and the MSC Area Commander, and shall cooperate with and ensure that CS personnel cooperate with any investigation of the incident by MSC, U.S. Navy, DoD, or other U.S. Government agency. The standing rules of engagement applicable to U.S. military members are not applicable to CS personnel.

- 7) WRITTEN CONTRACT SECURITY (CS) ACKNOWLEDGMENT OF CONTRACTOR, SUBCONTRACTOR(S), & CS PERSONNEL.
  - a. Prior to embarkation of the CS, all CS personnel shall sign a CS ACKNOWLEDGMENT. The Contractor is responsible for the submission of the CS Acknowledgment by CS personnel.
  - b. The CS Acknowledgment to the Contracting Officer will state that:

CONTRACT SECURITY (CS) ACKNOWLEDGMENT (CSA)

The undersigned AFFIRMS by signatures (along with their printed names and dates of signature) at the bottom of this Acknowledgment, that they have read and understand the contents of this Acknowledgment, have truthfully provided any required information, and will comply with all requirements contained in this Acknowledgment.

- (1) CS personnel have been briefed by the Contractor or CS subcontractor(s) and understand they will provide security on the Vessel and defend against threats to the Vessel, its crew, and DoD military cargo on board. In particular, CS personnel shall be prepared to:
  - a) Prevent any Visit, Board, Search or Seizure (VBSS) force, of as many as 15 personnel, from boarding the vessel by any means, to include but not limited to, a helicopter assault.
  - b) Defend the vessel against pirates or terrorists who may use 2 to 20 small vessels simultaneously attacking both sides of the vessel and may be armed with automatic weapons and rocket propelled grenades.
  - c) Defend the vessel against suicide-bomber attacks by manned or remotely piloted small vessels laden with improvised explosive devices.



- d) Defend the vessel against remotely piloted or GPS controlled small UAS suicide-bomber attacks.
  - e) Defend the vessel against any other attack designed to steal or sabotage the vessel, its cargo, or cause death or serious bodily harm of its crew or supercargo.
- (2) Unlawful or otherwise improper use of force may subject the Contractor, subcontractor(s), and their employees (including CS personnel) to criminal prosecution and/or civil liability under U.S., flag state, local, or international law.
- (3) CS personnel have been briefed by the Contractor or CS subcontractor and understand limitations on the use of force. In particular, the standing rules of engagement applicable to U.S. military members are not applicable to CS personnel. When using force, to include deadly force, CS personnel will at a minimum, comply with:
- i) Current version of DoD Directive 5210.56, ARMING AND THE USE OF FORCE (particularly enclosure 2 thereto);
  - ii) Current version of SECNAV Instruction 5500.37, ARMING AND THE USE OF FORCE; and
  - iii) Current version of ALMSC Message, Subject: RULES FOR THE USE OF FORCE BY MSC MARINERS.
- (4) CS personnel will only use U.S. government-approved firearms and ammunition. These government-approved firearms and ammunition, as well as any body armor, tactical communications systems, or protective equipment, will be furnished to the CS by the Contractor or CS subcontractor(s), who are responsible for delivery to and retrieval from the Vessel of these items.
- (5) Contractor and subcontractor(s) acknowledge that the background and qualifications of CS personnel have been investigated, and certify these personnel are not prohibited under U.S. law to possess firearms, and all documentation provided to the Contracting Officer is accurate.
- (6) CS personnel have properly filled out, signed, and provided DD FORM 2760 (**QUALIFICATION TO POSSESS FIREARMS OR AMMUNITION**) and MSC SUPPLEMENT TO DD FORM 2760. Contractor shall provide copies of these completed forms to the Contracting Officer with this CS Acknowledgment.
- (7) CS personnel shall each carry a copy of the signed CSA with him or her at all times.
- (8) Authorization for CS personnel to use firearms may be revoked for non-compliance with established rules for the use of force by the vessel Master or the Contracting Officer. In the event of such a revocation, the contractor shall:
- (a) Provide immediate notification (within four (4) hours) to the Contracting Officer.
  - (b) Within 24-hours, provide a plan to return the CS to full capability, including providing all required documentation, certifications and Contract Security (CS) Acknowledgement for replacement personnel, for government acceptance/approval.

- (9) CS personnel shall be current on all qualifications to use the specified Contractor or subcontractor-furnished and government-approved firearms and will not be issued or use any weapon with which they have not qualified (the date and types of qualification standards that individual CS personnel are in compliance with are set forth below under each of their printed names).

**(k) PROGRAM OF SHIPMENTS (COA)**

- (1) Voyages. Unless a specific program is agreed in Box 69, the program of shipments shall be fairly evenly spread over the period of this COA. Should a specific program not be agreed, Box 69 shall nonetheless identify contemplated laydays and cargo quantities of voyages hereunder.
- (2) Laydays. Unless a specific program is agreed in Box 69, the party authorized in Box 69 to designate laydays hereunder shall designate laydays of four-day span not less than ten running days prior to the commencing date of any voyage hereunder.
- (3) Nomination of Ports. Should Box 3 permit Charterer to order the Vessel to load at one or more ports or places out of two or more ports or places named, or within a named range, Charterer shall nominate loading port(s) or place(s) not less than ten running days prior to the commencing date of the relevant voyage. Should Box 5 permit Charterer to order the Vessel to discharge at one or more ports or places out of two or more ports or places named, or within a named range, Charterer shall nominate discharging port(s) or places in sufficient time to avoid delay to the Vessel. However, the Charterer may at any time change said nominations and nominate new port(s) or place(s) whether or not within the range or rotation of the port(s) or place(s) previously nominated, always consistent with Boxes 3 and 5. Should any such change of voyage orders be made, any time by which the steaming time to the port(s) or place(s) to which the Vessel is finally ordered exceeds the steaming time which would have elapsed had the Vessel been ordered to such port(s) or place(s) immediately upon sailing therefor shall count as laytime or, if the Vessel is on demurrage, as time on demurrage (less the value of the Vessel's in-port bunker consumption for the period of such excess time). In addition, the Charterer shall reimburse the Owner the cost of any extra fuel consumed as a consequence of such excess time (at the market price where and when bunkers are next taken), but only upon such verification as required by IV(l) (Reimbursable Supplies and Services (Charters)).

**(l) FINAL SHIPMENT (COA)**

Owner shall not be bound to transport any balance of the total quantity which is less than one-half the cargo quantity which was contemplated for the final shipment in Box 69.

**(m) SHORTLIFTING (COA)**

- (1) Should the minimum cargo quantity identified in Box 2 for the full term of this COA not be transported for any reason not the fault of the Owner, freight shall be payable on the difference between the intaken, manifested measure of cargo transported and the

minimum cargo quantity identified in Box 2 for the full term of this COA, excluding any amount of cargo not shipped in accordance with V(l) (Final Shipment) above. Unless otherwise agreed, the shortlifted amount shall be reckoned upon the expiry of this Contract of Affreightment.

- (2) This paragraph (m) not to apply if otherwise agreed, or if the agreed measure of freight is not based upon measure of the cargo.

**(n) CHARTER ALTERATIONS (COA)**

The following Parts are deleted from this Charter Party: III(c) (Deadfreight), III(f) (Cargo), III(g) (Non-Government Cargo) and III(i)(2) (Ports - Nomination). Part I shall include pages I-1 through I-5.

**(o) LOADING AND DISCHARGING (F.I.O.S.S.)**

- (1) Except as otherwise provided, the cargo shall be brought into the holds, loaded, stowed, and secured/unsecured, and taken from the holds and discharged by the Charterer or its representatives, free of any expense whatsoever to the Owner.

- (2) Charterer shall be responsible for the cost of the following:

- (i) Stevedoring.
- (ii) Clerking, tallying, checking, and cargo documentation.
- (iii) Heavy-lift equipment other than Vessel's own gear, when ordered for the convenience of Charterer, although Charterer to have free use of any cranes, winches, derricks, tackle, gear, and sufficient motive power therefor, aboard the Vessel.
- (iv) Removal of strongbacks with shore equipment where use of shore equipment is not necessitated by a structural or mechanical defect in the Vessel unless said defect is caused by the fault or negligence of the Charterer.
- (v) Lighterage not on account of any deficiency of the Vessel, and all costs associated therewith.
- (vi) Lashing, sheathing, unsheathing, securing/unsecuring, dunnaging, lashing gear, separation material, deck-cargo cover material, and any special fittings required, to include all labor and materials therefor, although Charterer to have free use of lashing gear, dunnaging, shifting boards, and fittings aboard the Vessel.
- (vii) Winchmen, unless same are requested and permitted to be from Vessel's crew.
- (viii) All opening and closing of Vessel's hatches, unless requested and permitted to be accomplished by Vessel's crew.
- (ix) At discharge, sweeping clean those holds utilized for the carriage of the cargo identified in Box 2.

(3) Owner to be responsible for the cost of the following:

- (i) Heavy-lift equipment other than Vessel's own gear, when ordered for the convenience of the Owner.
- (ii) Light, as on board the Vessel.

**(p) LOADING AND DISCHARGING (F.I.O. EX S.S.)**

Except as otherwise provided, the cargo shall be brought into the holds and loaded, and taken from the holds and discharged by the Charterer or its representatives, free of any expense whatsoever to the Owner. Stowage and securing/unsecuring shall be for the Owner's account.

(1) Charterer shall be responsible for the cost of the following:

- (i) Stevedoring.
- (ii) Clerking, tallying, checking, and cargo documentation.
- (iii) Heavy-lift equipment other than Vessel's own gear, when ordered for the convenience of Charterer, although Charterer to have free use of any cranes, winches, derricks, tackle, gear, and sufficient motive power therefor, aboard the Vessel.
- (iv) Removal of strongbacks with shore equipment where use of shore equipment is not necessitated by a structural or mechanical defect in the Vessel unless said defect is caused by the fault or negligence of the Charterer.
- (v) Lighterage not on account of any deficiency of the Vessel, and all costs associated therewith.
- (vi) Winchmen, unless same are requested and permitted to be from Vessel's crew.
- (vii) All opening and closing of Vessel's hatches, unless requested and permitted to be accomplished by Vessel's crew.
- (viii) At discharge, sweeping clean those holds utilized for the carriage of the cargo identified in Box 2.

(2) Owner to be responsible for the cost and time of the following:

- (i) Lashing, sheathing, unsheathing, securing/unsecuring, dunnaging, lashing gear, D-rings, separation material, deck-cargo cover material, and any special fittings (including those for special trades, dangerous cargoes, explosive cargoes, deck cargoes, or unusual cargoes) that are required, to include all labor and materials therefor.
- (ii) Heavy-lift equipment other than Vessel's own gear, when ordered for the convenience of the Owner.
- (iii) Light, as on board the Vessel.

**(q) LOADING AND DISCHARGING (LINER TERMS)**

Owner shall be responsible for those loading and discharging services as are normally performed by a common carrier in its usual commercial service including without limitation, unless otherwise agreed, responsibility for the cost and time of the following:

- (1) Stevedoring, including any and all expenses necessary to load the cargo in the customary manner from alongside the Vessel, and to discharge same in the customary manner under Vessel's gear or under shore gear.
- (2) Clerking, tallying, checking, and cargo documentation.
- (3) Shore-based and Vessel-based lifting equipment necessary.
- (4) Removal of strongbacks.
- (5) Lighterage and all costs associated therewith.
- (6) Winchmen.
- (7) Lashing, sheathing, unsheathing, securing/unsecuring, dunnaging, lashing gear, D-rings, separation material, deck-cargo cover material, and any special fittings (including those for special trades, dangerous cargoes, explosive cargoes, deck cargoes, or unusual cargoes) that are required, including all labor and materials therefor.
- (8) All opening and closing of Vessel's hatches.
- (9) Lighting, as onboard the Vessel.

**(r) LOADING AND DISCHARGING (F.I.O.S.S. WITH OWNER-FURNISHED LASHING GEAR)**

Loading and discharging shall be in accordance with V(o) (Loading and Discharging (F.i.o.s.s.)) above, except that:

- (1) Owner shall furnish free of expense all material necessary for lashing, sheathing, securing/unsecuring, dunnaging, separating, or covering the entire cargo identified in Box 2, as well as any special fittings required (including those for special trades, dangerous cargoes, explosive cargoes, deck cargoes, or unusual cargoes).
- (2) In the case of roll-on/roll-off service, Vessel shall be equipped with lashing points not greater than ten feet apart on a grid, or equipped with an alternative lashing system approved in writing in advance by the Contracting Officer.

**(s) LOADING AND DISCHARGING (F.I.O.S.S. WITH OWNER-FURNISHED TRAILERS OR GEAR)**

Loading and discharging shall be in accordance with V(o) (Loading and Discharging (F.i.o.s.s.)) above, except that:

- (1) In the case of roll-on/roll-off service, Owner shall furnish free of expense all "lowboy" or "mafi" trailers necessary to transport the cargo identified in Box 2. Should said Owner--furnished trailers not be compatible with standard U.S. Government tractors, Owner shall additionally furnish free of expense all necessary tractors that are compatible with the Owner's trailers.
- (2) In the case of lift-on/lift-off service, Vessel shall be equipped, free of additional expense to the Charterer, with heavylift gear adequate to load and discharge the cargo identified in Box 2 at an acceptable tempo.

**(t) LOADING AND DISCHARGING (LINER TERMS FROM/TO GOVERNMENT TERMINAL)**

Loading and discharging shall be in accordance with V(q) (Loading and Discharging Liner Terms) above, except that:

- (1) All time and expense associated with transporting the cargo in the customary manner from the Government's terminal to a point alongside the Vessel shall be for the Owner's account at the port(s) of loading.
- (2) All time and expense associated with transporting the cargo in the customary manner from a point under Vessel and/or shore gear to the Government's terminal shall be for the Owner's account at the port(s) of discharging.

**(u) LOADING AND DISCHARGING (FLO/FLO)**

- (1) Terms. The cargo shall be loaded and discharged using a float-on/float-off ("flo/flo") process. The cargo shall be shipped on deck.
- (2) Loading. At the loading site, having positioned the cargo fifty meters (or other distance as mutually agreed) from the Vessel's deck, Charterer's loading responsibility to end when the Vessel's first control line is made fast to the cargo.
- (3) Discharging. At the discharging site, Charterer's discharging responsibility to begin when the last of the Vessel's control lines has been released from the cargo in the sequence and time-frame required by the Charterer.
- (4) Owner shall be responsible for the cost of the following:
  - (i) All costs of positioning, ballasting, and deballasting the Vessel.

- (ii) Winchmen sufficient to operate Vessel's gear, whether or not from ship's crew.
- (iii) All costs of securing and unsecuring the cargo, including costs of labor and materials associated with lashing, securing, bracing, blocking, cribbing, cradling, and all fastenings, fittings, posts, and blocks required therefor.
- (iv) Upon loading, the costs of assisting tugs and workboats as from the time said tugs/workboats are positioned fifty meters (or other distance as mutually agreed) from the Vessel, until the time said tugs/workboats are dismissed from the Vessel by the Master. The tugs/workboats shall be engaged by the Owner in number as mutually agreed.
- (v) Upon discharging, the costs of assisting tugs and workboats as from the time said tugs/workboats have reached a standby position off the Vessel designated by the Master, until the time that the last of the Vessel's cargo-control lines has been released from the cargo. The tugs/workboats shall be engaged by the Owner in number as mutually agreed.
- (vi) All costs incurred in preparation of a detailed pre-stow plan to Charterer's satisfaction.
- (vii) Divers used to position or inspect cargo, prior and during loading and discharge operations.

(5) Charterer to be responsible for the cost of the following:

- (i) All costs of preparing the cargo for transportation, prior to its being loaded.
- (ii) Upon loading, the cost of assisting tugs and workboats as follows: (1) for the tugs' time spent positioning from their home ports to the cargo's berth; (2) for the time spent shifting the cargo to a position of fifty meters (or other distance as mutually agreed) from the Vessel; and (3) for the tugs' time positioning back to their home port(s) after being dismissed by the Vessel's Master. The tugs/workboats shall be engaged by the Owner in number as mutually agreed. The cost of assisting tugs and workboats for Charterer's account as above shall be paid by the Owner and reimbursed by the Charterer in accordance with IV(l) (Reimbursable Supplies and Services (Charters)).
- (iii) Upon discharging, the cost of assisting tugs and workboats as follows: (i) for the tugs' time spent positioning from their home ports to a standby position off the Vessel designated by the Master; (ii) for the time spent shifting the cargo once the last of the Vessel's cargo-control lines has been released from the cargo; and (iii) for the tugs' time positioning back to their home port(s) after completion of the discharging operation. The tugs/workboats shall be engaged by the Owner in number as mutually agreed. The cost of assisting tugs and workboats for

Charterer's account as above shall be paid by the Owner and reimbursed by the Charterer in accordance with IV(l) (Reimbursable Supplies and Services (Charters)).

- (iv) The costs of an independent, recognized marine surveyor, selected jointly by Owner and Charterer. The surveyor as mutually agreed shall be engaged and paid by the Owner, and the Owner will be reimbursed the costs therefor by the Charterer in accordance with IV(l) (Reimbursable Supplies and Services (Charters)).

**(v) INDEPENDENT SURVEYOR (FLO/FLO)**

- (1) Requirement. In advance of the Vessel's sailing from the loading site agreed, an unconditional certificate of fitness shall have been issued by an independent surveyor. Said certificate shall specify that the cargo is in every way properly loaded, stowed, lashed, and fit for the transportation contemplated.
- (2) Cost. The cost and hiring of the marine surveyor hereunder shall be in accordance with V(u) (Loading and Discharging (FLO/FLO)) above.
- (3) Reservation. Any determination by the independent surveyor in respect of the services contemplated shall not be in derogation of any conflicting determination of unfitness by the Charterer in the exercise of its inspection rights under II(a) (Inspection).

**(w) NOTICE OF READINESS (FLO/FLO)**

When the Vessel has arrives at each load or discharge site, and is ready to receive or discharge the cargo, as the case may be, a notice of readiness shall be tendered during Office Hours SSHEX to the Charterer's representative by the Master or Owner's agent by letter, electronic-mail, radio, or telephone. An oral notice shall be confirmed promptly in writing.

**(x) LAYTIME/DETENTION (FLO/FLO)**

- (1) Commencement. At loading and discharging sites, laytime shall commence six running hours after tender of a proper notice of readiness, or so much later as the Vessel is effectively ready to respectively receive or discharge the cargo. Laytime/Detention shall not commence before 0800 hours local time on the commencing date identified in Box 6 unless the Charterer shall consent, in which case laytime shall commence upon tender of a proper notice of readiness and count as half time as used until 0800 hours local time on the commencing date.
- (2) Duration
  - (i) Loading Site. The laytime specified in Box 74a, in days of twenty-four running hours, weather permitting, shall be allowed the Charterer for the purpose of delivery of the cargo in accordance with V(u) (Loading and Discharging (FLO/FLO)) above.



Said laytime shall continue to count until the Vessel's first cargo-control line is attached to the cargo. Time used for submerging and deballasting shall not count.

- (ii) Discharging Site. The laytime specified in Box 74b, in days of twenty-four running hours, weather permitting, shall be allowed the Charterer for the purpose of acceptance of redelivery of the cargo in accordance with V(u) (Loading and Discharging (FLO/FLO)) above. Said laytime shall continue to count until the last of the Vessel's cargo-control lines has been released from the cargo in the sequence and time-frame required by the Charterer. Time used for submerging shall not count.

**(y) ALTERNATE LOADING OR DISCHARGING SITE (FLO/FLO)**

- (1) Rights of Owner and Charterer. Should the Master judge that loading or discharging of the cargo (as applicable) will not be possible at the site ordered without unacceptable risk, the Charterer and Owner shall consult with a view to selecting an alternate site as near as possible to the site ordered. Approval of any alternate site shall be in the Charterer's option, this option not to be construed in derogation of any other rights of the Charterer under this Charter or at law.
- (2) Cost. Time lost and expenses incurred transiting to an alternate agreed loading or discharging site shall be compensated as set out in III(i)(4) (Ports – Shifting) above, as from the time that the Master notifies the Charterer of the unacceptable risk of loading or discharging.

**(z) CHARTER ALTERATIONS (FLO/FLO)**

The following Parts are deleted from this Charter Party: III(c) (Deadfreight), III(h)(1) (Loading and Discharging), III(j) (Notice of Readiness), and III(k)(1), (2), (3)(iv), and (3)(v) (Laytime/Demurrage). Part I shall include pages I-1 through I-4 and I-6.

**(aa) LIABILITY (KNOCK-FOR-KNOCK)**

- (1) Charterer Named Assured. The United States of America to be a named assured, with waiver of subrogation noted, on all of the insurance policies required at IV(t) (Insurance) above, for the period and risks of this Charter Party.
- (2) Owner's Liability. Owner to be liable for all loss or damage of whatsoever nature and howsoever caused to or sustained by the Vessel, any liability in respect of Vessel wreck removal and the expense of moving, lightening, or buoying the Vessel, any liability in respect of death or injury of any of the Owner's employees, servants, agents or subcontractors' personnel, any liability in respect of other cargo on board the Vessel not the subject of this Charter, and all liabilities consequent upon the loss, damage, or (except as otherwise provided in this Charter) delay of the Vessel, all of which shall be for the sole account of the Owner without recourse to the Charterer, its servants, agents, or representatives, and the Owner shall indemnify, defend, and hold Charterer harmless

from and against any and all claims, losses, costs, damages, and expenses of every kind and nature including legal expenses arising from the foregoing.

- (5) Charterer's Liability. Except to the extent recoverable under insurance required to be carried by Owner, Charterer shall be liable for all loss, damage, or delay of whatsoever nature and howsoever caused to or sustained by the cargo, including any property operated, owned, hired, and/or leased by the Charterer on board the Vessel or cargo, any liability in respect of cargo wreck removal and the expense of (except as otherwise provided in this Charter) moving, lightening, or buoying the cargo, all of which shall be for the sole account of the Charterer without recourse to the Owner, its servants, or agents.

(ab) **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 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.

(ac) **SECURING AND STOWING OF AMMUNITION CONTAINERS**

- (1) Vessels offered must be acceptable for carriage of explosives in accordance with International Maritime Dangerous Goods Code (IMDG).
- (2) Vessels offered must, in addition to being fully equipped to carry IMDG CLASS 1, be fully container fitted either with cell guides or stools (base fittings for securing containers on tank tops/hatch covers), stacking cones and container securing devices.
- (3) Containers loaded with IMDG CLASS 1 explosives stowed underdeck must be stowed a minimum of 3 meters away from the engine room bulkhead when the Vessel is fitted with an engine room bulkhead insulated to A60 standard. For vessels not fitted with an engine room bulkhead insulated to A60 standard, there must be a 9 meter separation. Deck stowed containers must be separated from the bridge, accommodation spaces and life savings appliances by a minimum horizontal distance of 8 meters.

**(ad) EXPLOSIVE WARRANTY**

Offerors warrant that Vessel is suitable for carriage of such explosives as described herein. Provision of any fittings, such as fire fighting/detection equipment, and making good any defects to the Vessel, her gear, her fixtures and fittings to make the Vessel suitable for carrying the cargo described, including any necessary certificates/surveys required by competent authority, shall be for the expense of the Vessel. Vessels are required to have aboard current editions of the following publications:

- (1) Medical First Aid Guide for Use in Accidents Involving Dangerous Goods (MFAG)
- (2) Emergency Procedures for Ships Carrying Dangerous Goods (EMS).
- (3) International Maritime Dangerous Goods Code Volume relating to IMDG CLASS 1.
- (4) Vessels loading out of U.S. ports shall have aboard current editions of 49CFR, Chapter 1, Subchapter C.

**(ae) SAFETY AND FIRE PROTECTIONS AND LIGHTING**

- (1) Vessel(s) offered must be in compliance with all applicable safety regulations and SOLAS requirements, comply with the IMDG code and be equipped with the following fire protection equipment in working order when tendering notice of readiness:
  - (i) Main machinery spaces must be fitted with a fixed fire-detection and fire alarm system and a fixed fire-extinguishing installation equivalent to SOLAS standards.
  - (ii) All cargo spaces must be fitted with a fire detection system.
  - (iii) Vessel must be equipped with a power operated emergency fire pump, which, together with its source of power and sea connections, should be located outside the machinery space.
  - (iv) At least two sets of self-contained breathing apparatus of an approved type must be aboard.
  - (v) At least two fireman's outfits of an approved type must be aboard.
- (2) If fixed hold lighting is installed, the fittings and wiring must be intrinsically safe, well protected from mechanical damage, dust tight and protected from water damage. If portable hold lights are used they must be completely protected from dust and protected against projections of water from all directions. Flexible cable should have at least a steel or copper braid armour with an overall sheath of PVC, tough rubber or similar material.

**(af) EMERGENCY PREPAREDNESS**

At all times when the Vessel is laden with explosives in United Kingdom ports, local regulations require that the following conditions are observed:

- (1) The main engine must be available for immediate emergency use.
- (2) Sufficient crew must be on board to enable the Vessel to get underway immediately.
- (3) A roving watchstander will be on-deck during hours of darkness whenever cargo operations are not being conducted.

**(ag) NORDENHAM/BREMERHAVEN PORT CHARGES**

The following is added as the last sentence to II(k), Taxes, of this Charter Party: “The Contractor is responsible for arranging and paying for fire tug service, quay dues and gangway watchmen required by the port. These charges will be reimbursed by the Government upon submission of proper documentation under this Contract.”

**(ah) OPERATIONAL SECURITY (OPSEC)**

The Contractor shall utilize the Military Sealift Commands' Critical Information and Indicators List, which will be identified or provided by the Contracting Officer or Contracting Officer Representative to help identify and protect critical information.

During the performance period of this contract, the Contractor may be exposed to, use, or produce, MSC Critical Information (CI) and/or observables and indicators which may lead to discovery of CI. MSC's CI will not be distributed to unauthorized third parties, including foreign governments, or companies under Foreign Ownership, Control, or Influence (FOCI). MSC's CI shall not be publicized in corporate wide newsletters, trade magazines, displays, intranet pages or public facing websites. Media requests related to this project shall be directed to MSC Public Release Authority listed in Item 12 of this DD Form 254.

Any attempt by unauthorized third parties to solicit, obtain, photograph, or record, or; incidents of loss/compromise of government Classified or CI, Business Sensitive and Company Proprietary information related to this contract or other programs must be immediately reported to the Facility Security Officer, DCSA and/or the Naval Criminal Investigative Service.

Performance under this contract requires the contractor to adhere to OPSEC requirements IAW DODM 5205.02, OPSEC Program Manual. OPSEC requirements are additional to the requirements of Part 117 of Title 32 CFR, therefore, the Contractor may not impose OPSEC requirements on its subcontractors unless MSC approves the OPSEC requirements.

**(ai) SEXUAL ASSAULT AND/OR SEXUAL HARASSMENT**

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

## VI. FAR AND DFARS CLAUSES INCORPORATED BY REFERENCE

### (a) FAR 52.252-2 Clauses Incorporated by Reference

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

<https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52>  
[https://www.acq.osd.mil/dpap/dars/dfars\\_far\\_overhaul\\_class\\_deviations.html](https://www.acq.osd.mil/dpap/dars/dfars_far_overhaul_class_deviations.html)

(End of clause)

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

- |                                     |           |  |
|-------------------------------------|-----------|--|
| <input checked="" type="checkbox"/> | 52.203-3  | Gratuities   |
| <input checked="" type="checkbox"/> | 52.203-6  | Restriction on Subcontractor Sales to the Government, Alternate I  |
| <input type="checkbox"/>            | 52.203-13 | Contractor Code of Business Ethics and Conduct   |
| <input checked="" type="checkbox"/> | 52.203-19 | Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements   |
| <input checked="" type="checkbox"/> | 52.204-10 | Reporting Executive Compensation and First-Tier Subcontract Awards   |
| <input checked="" type="checkbox"/> | 52.204-13 | System for Award Management—Maintenance  |
| <input type="checkbox"/>            | 52.204-14 | Service Contract Reporting Requirements  |
| <input checked="" type="checkbox"/> | 52.204-19 | Incorporation by Reference of Representations and Certifications   |
| <input checked="" type="checkbox"/> | 52.209-6  | Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded |
| <input checked="" type="checkbox"/> | 52.209-9  | Updates of Publicly Available Information Regarding Responsibility Matters   |
| <input checked="" type="checkbox"/> | 52.209-10 | Prohibition on Contracting with Inverted Domestic Corporations   |
| <input checked="" type="checkbox"/> | 52.211-15 | Defense Priority and Allocation Requirements   |
| <input type="checkbox"/>            | 52.217-5  | Evaluation of Options  |
| <input type="checkbox"/>            | 52.217-8  | Option to Extend Services  |
| <input type="checkbox"/>            | 52.217-9  | Option to Extend the Term of the Contract  |
| <input type="checkbox"/>            | 52.219-3  | Notice of HUBZone Set-Aside or Sole-Source Award   |
| <input type="checkbox"/>            | 52.219-6  | Notice of Total Small Business Set-Aside   |
| <input type="checkbox"/>            | 52.219-7  | Notice of Partial Small Business Set-Aside   |
| <input type="checkbox"/>            | 52.219-8  | Utilization of Small Business Concerns   |
| <input type="checkbox"/>            | 52.219-9  | Small Business Subcontracting Plan,  |
| <input type="checkbox"/>            | 52.219-9  | Small Business Subcontracting Plan, Alternate II   |
| <input type="checkbox"/>            | 52.219-14 | Limitations on Subcontracting  |

- ☐ 52.219-16 Liquidated Damages—Subcontracting Plan
- ☐ 52.219-27 Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program
- ☐ 52.219-28 Postaward Small Business Program Representation
- ☐ 52.219-29 Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns
- ☐ 52.219-30 Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program
- ☐ 52.222-3 Convict Labor
- ☐ 52.222-19 Child Labor—Cooperation with Authorities and Remedies
- ☐ 52.222-35 Equal Opportunity for Veterans
- ☐ 52.222-36 Equal Opportunity for Workers with Disabilities
- ☐ 52.222-37 Employment Reports on Veterans
- ☐ 52.222-40 Notification of Employee Rights Under the National Labor Relations Act
- ☐ 52.222-41 Service Contracts Labor Standards
- ☒ 52.222-42 Statement of Equivalent Rates for Federal Hires
- ☐ 52.222-43 Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts)
- ☒ 52.222-44 Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment
- ☒ 52.222-50 Combating Trafficking in Persons
- ☐ 52.222-53 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements
- ☐ 52.222-54 Employment Eligibility Verification
- ☐ 52.222-55 Minimum Wages for Contractor Workers Under Executive Order 14026
- ☐ 52.222-62 Paid Sick Leave Under Executive Order 13706
- ☒ 52.223-3 Hazardous Material Identification and Safety Data
- ☐ 52.223-9 Estimate of Percentage of Recovered Material Content for EPA–Designated Items
- ☒ 52.223-11 Ozone-Depleting Substances
- ☐ 52.223-12 Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners
- ☒ 52.223-23 Sustainable Products
- ☐ 52.224-3 Privacy Training
- ☐ 52.225-5 Trade Agreements
- ☐ 52.225-19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States
- ☐ 52.225-26 Contractors Performing Private Security Functions Outside the United States
- ☒ 52.226-8 Encouraging Contractor Policies to Ban Text Messaging While Driving

- ☒ 52.228-3 Worker's Compensation Insurance (Defense Base Act)
- ☐ 52.229-12 Tax on Certain Foreign Procurements
- ☒ 52.232-18 Availability of Funds
- ☒ 52.232-23 Assignment of Claims
- ☐ 52.232-29 Terms for Financing of Purchases of Commercial Products and Commercial Services
- ☐ 52.232-30 Installment Payments for Commercial Products and Commercial Services
- ☒ 52.232-33 Payment by Electronic Funds Transfer-System for Award Management
- ☐ 52.232-34 Payment by Electronic Funds Transfer-Other than System for Award Management
- ☐ 52.232-36 Payment by Third Party
- ☒ 52.232-39 Unenforceability of Unauthorized Obligations
- ☒ 52.232-40 Providing Accelerated Payments to Small Business Subcontractors
- ☒ 52.233-3 Protest after Award
- ☒ 52.233-4 Applicable Law for Breach of Contract Claim
- ☐ 52.242-5 Payments to Small Business Subcontractors
- ☐ 52.242-15 Stop-Work Order
- ☐ 52.245-1 Government Property, Alternate I
- ☐ 52.245-9 Use and Charges
- ☒ 52.246-4 Inspection of Services-Fixed-Price
- ☒ 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels, Alternate I

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

- ☒ 252.201-7000 Contracting Officer's Representative
- ☒ 252.203-7000 Requirements Relating to Compensation of Former DoD Officials
- ☒ 252.203-7002 Requirement to Inform Employees of Whistleblower Rights
- ☐ 252.203-7003 Agency Office of the Inspector General
- ☐ 252.204-7000 Disclosure of Information
- ☒ 252.204-7003 Control of Government Personnel Work Product
- ☒ 252.204-7004 Antiterrorism Awareness Training for Contractors
- ☒ 252.204-7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information
- ☒ 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (DEVIATION 2024-O0013, REVISION 1) (MAY 2024)
- ☒ 252.204-7014 Limitations on the Use or Disclosure of Information by Litigation Support Contractors
- ☒ 252.204-7015 Notice of Authorized Disclosure of Information for Litigation Support

- ☒ 252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services
- ☒ 252.204-7020 NIST SP 800-171 DoD Assessment Requirements
- ☒ 252.205-7000 Provision of Information to Cooperative Agreement Holders
- ☒ 252.209-7004 Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism
- ☐ 252.211-7003 Item Unique Identification and Valuation
- ☐ 252.211-7008 Use of Government-Assigned Serial Numbers
- ☐ 252.219-7996 Small Business Subcontracting Plan (DoD Contracts) (DEVIATION 2026-O0037) (FEB 2026)
- ☐ 252.219-7997 Small Business Subcontracting Plan (Test Program) (DEVIATION 2026-O0037) (FEB 2026)
- ☒ 252.222-7004 Compliance with Spanish Social Security Laws and Regulations
- ☒ 252.223-7002 Safety Precautions for Ammunition and Explosives
- ☒ 252.223-7003 Change in Place of Performance--Ammunition and Explosives
- ☐ 252.223-7008 Prohibition of Hexavalent Chromium
- ☐ 252.225-7005 Identification of Expenditures in the United States
- ☐ 252.225-7007 Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies
- ☒ 252.225-7012 Preference for Certain Domestic Commodities
- ☐ 252.225-7024 Requirement for Products or Services from Afghanistan
- ☐ 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales
- ☐ 252.225-7028 Exclusionary Policies and Practices of Foreign Governments
- ☐ 252.225-7039 Defense Contractors Performing Private Security Functions Outside the United States
- ☐ 252.225-7040 Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States
- ☒ 252.225-7041 Correspondence in English
- ☒ 252.225-7043 Antiterrorism/Force Protection for Defense Contractors Outside the United States
- ☒ 252.225-7056 Prohibition Regarding Business Operations with the Maduro Regime
- ☒ 252.225-7967 Prohibition Regarding Russian Fossil Fuel Business Operations (DEVIATION 2024-O0006, REVISION 1) (FEB 2024)
- ☒ 252.225-7972 Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems (AUG 2024) (DEVIATION 2024-O0014)
- ☒ 252.225-7975 Additional Access to Contractor and Subcontractor Records (DEVIATION 2024-O0003) (DEC 2023)
- ☒ 252.225-7976 Contractor Personnel Performing in Japan (DEVIATION 2018-O0019) (AUG 2018)
- ☒ 252.225-7980 Contractor Personnel Performing in the United States Africa Command Area of Responsibility (DEVIATION 2016-O0008) (JUN 2016)



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

## PART VII. FAR AND DFARS PROVISIONS INCORPORATED BY REFERENCE

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

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

<https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52>  
[https://www.acq.osd.mil/dpap/dars/dfars\\_far\\_overhaul\\_class\\_deviations.html](https://www.acq.osd.mil/dpap/dars/dfars_far_overhaul_class_deviations.html)

(End of provision)

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

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

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

- ☒ 252.203-7005 Representation Relating to Compensation of Former DoD Officials

- ☒ 252.204-7008 Compliance with Safeguarding Covered Defense Information Controls
- ☒ 252.204-7016 Covered Defense Telecommunications Equipment or Services—Representation
- ☒ 252.204-7017 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services—Representation
- ☒ 252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements
- ☒ 252.204-7024 Notice on the Use of the Supplier Performance Risk System
- ☒ 252.215-7007 Notice of Intent to Resolicit
- ☒ 252.215-7008 Only One Offer
- ☐ 252.215-7010 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data
- ☐ 252.215-7016 Notification to Offerors—Postaward Debriefings
- ☐ 252.225-7023 Preference for Products or Services from Afghanistan
- ☒ 252.225-7055 Representation Regarding Business Operations with the Maduro Regime
- ☒ 252.225-7966 Prohibition Regarding Russian Fossil Fuel Business Operations—Representation (Deviation 2024-O0006, Revision 1) (MAR 2024)
- ☒ 252.225-7973 Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems—Representation (AUG 2024) (DEVIATION 2024-O0014)
- ☐ 252.237-7024 Notice of Continuation of Essential Contractor Services
- ☐ 252.247-7026 Evaluation Preference for Use of Domestic Shipyards — Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade

## **PART VIII. RESERVED**

## **PART IX. ATTACHMENTS – DRY CARGO VOYAGE CHARTER**

(a) Attachment IX(A) Standard Statement of Facts (Time Sheet)

(b) Attachment IX(B) Laytime Statement

**Unless specifically referenced in Box 6 of Part I, the attachments that follow do not apply to this Charter Party. If specifically referenced in Box 6 of Part I, the terms of any referenced attachments shall be incorporated into this Charter and shall, unless otherwise provided in the text of the attachment, apply with the same force and effect as any other clause of this Charter.**

(c) Attachment IX(C) US Department of Labor Wage Determination

(d) Attachment IX(D) Shipyard Data Information Spreadsheet; As outlined in relevant Parts VII, X, and and XI below, submission of an offer requires the submission of relevant shipyard data information for all Jones Act vessels owned or controlled by the offeror.

### ATTACHMENT IX(A) STANDARD STATEMENT OF FACTS

|                                    |                             |   |                           |
|------------------------------------|-----------------------------|---|---------------------------|
| 1. Agents                          |                             | STANDARD STATEMENT OF FACTS (SHORT FORM)<br>RECOMMENDED BY<br>THE BALTIC AND INTERNATIONAL MARITIME CONFERENCE (BIMCO)<br>AND THE FEDERATION OF NATIONAL ASSOCIATIONS<br>OF SHIP BROKERS AND AGENTS (FONASBA) |                           |
| 2. Vessel's name                   |                             | 3. Port   |                           |
| 4. Owners/Disponent Owners         |                             | 5. Vessel berthed   |                           |
| 8. Cargo                           |                             | 6. Loading commenced  | 7. Loading completed      |
|                                    |                             | 9. Discharging commenced  | 10. Discharging completed |
| 13. Charter Party*                 |                             | 11. Cargo documents on board  | 12. Vessel sailed         |
|                                    |                             | 14. Working hours/meal hours of the port*   |                           |
| 15. Bill of Lading weight/quantity | 16. Outturn weight/quantity |   |                           |
| 17. Vessel arrived on roads        |                             |   |                           |
| 19. Notice of readiness tendered   |                             |   |                           |
| 21. Next tide available            |                             |   |                           |
|                                    |                             | 18.   |                           |
|                                    |                             | 20.   |                           |
|                                    |                             | 22.   |                           |

#### DETAILS OF DAILY WORKING\*

| Date                         | Day | Hours worked |    | Hours stopped |    | No. of gangs  | Quantity load/disch. | Remarks* |
|------------------------------|-----|--------------|----|---------------|----|---|----------------------|----------|
|                              |     | From         | to | From          | to |   |                      |          |
|                              |     |              |    |               |    |   |                      |          |
| General remarks*             |     |              |    |               |    |   |                      |          |
| Place and date               |     |              |    |               |    | Name and signature (Master)*                                |                      |          |
| Name and signature (Agents)* |     |              |    |               |    | Name and signature (for the Charterers/Shippers/Receivers)* |                      |          |

**ATTACHMENT IX(B) LAYTIME STATEMENT**

| M.V./S.S:                  |      |             |    |                            | LOADING/DISCHARGING AT:    |   |                     |                         |   |   |
|----------------------------|------|-------------|----|----------------------------|----------------------------|---|---------------------|-------------------------|---|---|
| CHARTERS:                  |      |             |    |                            |                            |   |                     | C/P DATED:              |   |   |
| LAYTIME ALLOWED:           |      |             |    |                            |                            |   |                     |                         |   |   |
| DISPATCH RATE:             |      |             |    |                            | DEMURRAGE RATE:            |   |                     |                         |   |   |
| DAY                        | DATE | TIME WORKED |    | REMARKS                    | LAYTIME USED               |   |                     | TIME SAVED/ON DEMURRAGE |   |   |
|                            |      | FROM        | TO |                            | D                          | H | M                   | D                       | H | M |
|                            |      |             |    |                            |                            |   |                     |                         |   |   |
|                            |      |             |    |                            |                            |   |                     |                         |   |   |
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|                            |      |             |    |                            |                            |   |                     |                         |   |   |
|                            |      |             |    |                            |                            |   |                     |                         |   |   |
|                            |      |             |    | <b>TOTAL LAYTIME USED:</b> |                            |   |                     |                         |   |   |
| <b>DISPATCH/DEMURRAGE:</b> |      |             |    |                            | <b>DISPATCH/DEMURRAGE:</b> |   |                     |                         |   |   |
| <b>DATE:</b>               |      |             |    | <b>DAYS @ \$</b>           |                            |   | <b>PER DAY = \$</b> |                         |   |   |

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**ATTACHMENT IX(C)**  
**US DEPARTMENT OF LABOR WAGE DETERMINATION**  
**(TO BE ADDED AS APPLICABLE)**



**ATTACHMENT IX(D)**  
**SHIPYARD DATA INFORMATION TEMPLATE**  
**(TO BE ADDED AS APPLICABLE)**

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

- (1) *Submission of offers.* (TAILORED) Submit signed and dated offers to the point of contact specified in Block 7 of the SF 1449 at or before the exact time specified in this solicitation. Offers may be submitted on the [SF 1449](#), letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers shall include—The solicitation number;
- (2) The name, address, telephone number of the Offeror;
- (3) The Offeror's Unique Entity Identifier (UEI) and, if applicable, Electronic Funds Transfer (EFT) indicator;
- (4) Information necessary to evaluate the factors contained in the provision at 52.212-2 or as described in the solicitation;
- (5) Responses to provisions that require Offeror completion of information, representations, and certifications (other than those collected via the System for Award Management (SAM)); and
- (6) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and any solicitation amendments.
- (7) If the offer is not submitted on the [SF 1449](#), include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.
- (8) Subcontracting Plan. (Tailored) In accordance with FAR 52.219-9 and DFARS 252.219-7003, large business offerors shall submit a Small Business Subcontracting Plan with their proposal. Offerors shall ensure that they submit a Small Business Subcontracting Plan with all of the information required by FAR 52.219-9.
  - (i) For large businesses, unless determined that sub-contracting possibilities do not exist, the Government will evaluate the Small Business Subcontracting Plan in accordance with FAR 52.219-9. Failure to submit and negotiate a subcontracting plan acceptable to the Contracting Officer will make the offeror ineligible for award of a contract.
  - (ii) A subcontracting plan is NOT REQUIRED from small business concerns and will not be evaluated.
- (9) Form of Submission. (Tailored) Proposals may NOT be submitted via telex. Proposals/extensions may be submitted via e-mail in Adobe Acrobat (.pdf) format,

and must be compatible with Adobe Acrobat Reader 8.0 or later version. Offerors are advised that the Government may be unable to receive other types of electronic files (e.g., .zip files) or files in excess of 20 megabytes. Proposals/extensions must contain either a verifiable electronic signature (e.g. PKI enable certificate), or a scanned image of the handwritten signature of the Offeror or Offeror's authorized agent.

Note: Unsigned offers will not be considered for award. Offerors are advised that delays in the receipt of e-mail do occur. The Offeror is solely responsible for timely receipt of offers by the Government regardless of any problems or delays related to computer hardware or software systems including, but not limited to, servers and firewalls. The timestamp of the Offeror's sent e-mail shall not be construed as sufficient documentation of the Government's receipt of an e-mailed offer. An E-mail proposal that resides on a Government server, but has not appeared in the designated E-mail inbox by the due date and time for proposal submission will be considered late. Due to increased e-mail security, it may take longer for e-mails to be received in the appropriate in-box, especially when an e-mail is hosted in a foreign country; some e-mails are delayed in excess of hours. Offerors are encouraged to submit offers as soon as possible. Alternately, proposals/extensions may be faxed or mailed/carried to the address shown in Box 9 on the SF 1449.

- (10) Any other characteristics/details not shown in Part I that are pertinent to the Government's evaluation factors.
- (11) A valid submission consists of at least a ship name, a price, and a signature; without these at a minimum, your submission will not be considered for evaluation and award.
- (12) Set of completed boxes or information required found at DRYTIME PROFORMA Part I, pages I-I through I-11, as applicable, with emphasis on, or in addition to:
  - (i) Vessel's INMARSAT # (DRYVOY Box 23)
  - (ii) Vessel's Call Letters (DRYVOY Box 25)
  - (iii) Vessel's IMO Number
  - (iv) Year of Vessel (DRYVOY Boxes 8 and 22)
  - (v) Flag of Vessel (DRYVOY Boxes 8 and 22)
  - (vi) Proposed lay days (DRYVOY Box 14)
  - (vii) Compliance with/acknowledgements pursuant to Part XI(a)(6) below.
  - (viii) Acknowledgement of all terms and conditions of RFP and DRYVOY Proforma.
  - (ix) Lump-sum and demurrage (DRYVOY Box 19)
  - (x) Name and email address for Contractor Performance Assessment Reporting System (CPARS) (DRYVOY Box 11).
  - (xi) Acknowledgement of whether or not the Owner is a VISA participant (DRYVOY Box 18).
  - (xii) Acknowledgement of whether or not the Vessel is VISA enrolled (DRYVOY Box 18).

- (xiii) Completed FAR 52.209-7 – Information Regarding Responsibility Matters (By maintaining an active entity registration in SAM, the entity complied with requirements to report proceedings data IAW this clause.).
  - (xiv) Completed FAR 52.209-11 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction Under any Federal Law (submission in SAM fulfills this requirement.).
  - (xv) Any documentation, if required, by Part I, Box 7.
  - (xvi) Completed FAR 52.229-11 Tax on Certain Foreign Procurements—Notice and Representation.
  - (xvii) Certification required pursuant to FAR 52.222-56.
  - (xviii) Completed DFARS 252.204-7016 Covered Defense Telecommunications Equipment or Services—Representation.
  - (xix) Completed DFARS 252.204-7017 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services—Representation.
  - (xx) Completed FAR 52.209-5 Certification Regarding Responsibility Matters (Submission in SAM fulfills this requirement.).
- (13) Full Style of vessel and vessel owners/operators, and load/discharge port agents' contact information.
  - (14) Provide detailed diagrams of vessel deck NLT 72 hours prior to arrival at designated loading ports.
  - (15) Listing of cargo handling equipment on ship (e.g. forklifts, spreader bars, etc.).
  - (16) Owners must advertise load capacities/capabilities of ship's gear/cranes that will service the assigned cargo spaces (or details of arrangement made ashore for vessel discharge).
  - (17) Vessel must identify all deck spaces to be provided for loading.
  - (18) Owners must warrant that the Vessel Captain and crew have valid HAZMAT training.
  - (19) Identify any stowage constraints in regards to HAZMAT restrictions on board the vessel.
  - (20) Should the selected vessel already have commercial cargo loaded aboard, the vessel carrier must provide a detailed stow plan with cargo stowage locations and the order of vessel ports of call within the estimated timeframes.
  - (21) Owners must warrant that the vessel can accommodate port restrictions. There may be additional restrictions than those listed in the RFP.

- a. *Period for acceptance of offers.* Unless offeror proposes a shorter period, by submission of an offer, offeror agrees that its offer, including any timely revisions thereto, shall remain valid until the Government makes award under this solicitation. The forgoing does not preclude an offeror from withdrawing its offer prior to award.
- b. *Late submissions, modifications, revisions, and withdrawals of offers.*
  - (1) Offerors are responsible for submitting offers and any modifications or revisions to the Government office designated in the solicitation by the time specified in the solicitation.
  - (2) Any offer, modification, or revision received after the time specified for receipt of offers is “late” and will not be considered unless it is received before award is made and the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition. However, a late modification of an otherwise successful offer that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.
  - (3) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.
  - (4) Offerors may withdraw their offers by written notice to the Government received at any time before award.
- c. *Contract award.* The Government intends to evaluate offers and award a contract without discussions with Offerors. Therefore, the Offeror’s initial offer should contain the Offeror’s best terms. However, the Government reserves the right to conduct discussions, if necessary. The Government may reject any or all offers if such action is in the public interest, accept other than the lowest offer, and waive informalities and minor irregularities in offers received.
- d. *Debriefings.* If a postaward debriefing is given to requesting Offerors, the Government will disclose the following information, if applicable:
  - (1) The agency’s evaluation of the significant weak or deficient factors in the debriefed Offeror’s offer.
  - (2) The overall evaluated cost or price and technical rating of the successful Offeror and the debriefed Offeror and past performance information on the debriefed Offeror.
  - (3) The overall ranking of all Offerors when any ranking was developed by the agency during source selection.

- (4) A summary of the rationale for award.
  - (5) For acquisitions of commercial products, the make and model of the product to be delivered by the successful Offeror.
  - (6) Reasonable responses to relevant questions posed by the debriefed Offeror as to whether the agency followed source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities.
- e. *Vessel Substitution.* (Tailored) No proposed substitution will be permitted by Charterer during the procurement solicitation process after the date and time for offers has passed except when such substitution is made as part of a revised offer during a period in which the solicitation is reopened or when such substitution is made as part of a final proposal revision.
- f. *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions, including alternative line items (provided that the alternative line items are consistent with FAR [subpart 4.10](#)), or alternative commercial products or commercial services for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.
- g. *Classified Requirement.* Owner/Offeror shall acknowledge the existence of the classified requirement in this solicitation.
  - (1) Owner/Offeror or their representative, with appropriate security clearances in place, must submit to the contracting officer a request to review the classified requirement within one business day of the issuance of this solicitation and then must then make the necessary arrangements at their expense to view the classified requirement at appointed place and time provided, which must be prior to the solicitation response date and time. The opportunity to review the classified requirement will be lost if the contracting officer does not receive a request on time or if the Owner/Offeror misses the appointment. There is no requirement to review the classified requirement prior to submitting an offer. Not reviewing the requirement prior to submitting an offer will not in and of itself render an offer ineligible for award.
  - (2) Offers will be considered against this requirement before any other evaluation. An offer found not acceptable with this requirement will not be further evaluated. Owner/Offeror will be notified if their offers were excluded because of this requirement.
- h. *Simplified procedures.* This procurement is a FAR Part 12 acquisition being conducted under FAR 12.201-1(Simplified Procedures). Accordingly, simplified acquisition procedures apply. After receipt of proposals the Government may, with or without notice, negotiate with and, if desired, seek proposal revisions from as many or as few offerors as it, in its discretion, deems appropriate.

- k. *Questions.* Questions regarding the solicitation will be accepted up until the time that proposals are received. Questions received later than 2 working days prior to closing may not be answered.
- l. *Service of Protest.* Protests, as defined in FAR 33.101, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from the Contracting Officer. The mailing address is the same as that stated in Box 9, SF 1449. Interested parties may request an independent review of their protest as an alternative to consideration by the Contracting Officer or as an appeal of the Contracting Officer's decision on their protest. See FAR 33.103. Requests for independent review shall be addressed to:

Director, Contracts & Business Management Directorate, Code N10  
Military Sealift Command  
471 East C Street, Bldg. SP-4  
Naval Station Norfolk  
Norfolk, VA 23511-2419

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

(End of provision)

**PART XI. FAR 52.212-2 EVALUATION - COMMERCIAL ITEMS (OCT 2014) (tailored pursuant to FAR 12.205(a)) – SPOT CHARTER**

**(TAILORED)**

- (a) The Government will award a contract resulting from this solicitation to the responsible offeror (see Note (1) below) whose technically acceptable proposal represents the lowest price to the Government. Award will be made, if at all, according to the preference scale set forth in sec. III.A.3. of VISA (available at 79 Federal Register 64462-64470). If this RFP does not include DFARS 252.247-7026, award will be made, if at all, for the technically acceptable offer in the highest VISA priority, which has the lowest price among the offers in that VISA priority.
- 1) If this RFP includes DFARS 252.247-7026, then this evaluation scheme is subject to the next paragraph.
    - i. If 50% or more of the cost of overhaul, repair, and maintenance work of an offeror's "covered vessel[s]" (see definition at DFARS 252.247-7026(a)) has been conducted within a U.S. shipyard during the period covering the current calendar year through the date of proposal submission, plus the preceding four calendar years, then the offeror is in "Category 1." All other offerors are in "Category 2." Award will be made, if at all, for the technically acceptable "Category 1" offer with the highest VISA priority, which has the lowest price among the offers with that VISA priority. If no such offers exist, then award will be made, if at all, to the lowest price, technically acceptable, "Category 2" offer with the highest VISA priority. This evaluation scheme will continue, with "Category 1" offers within a particular VISA priority level having preference over "Category 2" offers within the same preference level. If two or more offers exist in the same VISA priority as set forth in Sec. III.A.3. of VISA, award will be made to the lowest price, technically acceptable offeror in the highest category of domestic shipyard usage.
  - 2) It is emphasized that as an integral part of the award selection a responsibility determination of the offeror will be made in accordance with FAR Part 9.104. Within this determination, the Government will only consider an offeror responsible if it presents a viable, continued capacity to fully provide the contracted services in accordance with the charter, regardless of operating conditions (e.g., conflict or contingency operations). This will be determined using the factors shown in FAR Part 9.104, to include 1) experience, 2) operational controls, 3) technical skills, and 4) satisfactory past performance record, and 5) ability to comply with required delivery schedule.
  - 3) In selecting the lowest price, technically acceptable offer, the following factors will be considered:
    - i. Technical
    - ii. Price



- 4) In compliance with Cargo Preference, the Contracting Officer may elect to only evaluate U.S. flag vessels, to include current U.S. flag vessels and vessels to be U.S. flag upon delivery.
  - 5) Offers will be evaluated to determine if the vessel complies with the classified requirement.
  - 6) Technical. The offeror's proposal will be evaluated based on technical capability of the vessel(s) proposed per the requirements outlined in Part I, DRYTIME Boxes 1 through 7. Owner/Offeror shall address all technical items in Boxes 1 through 7 for evaluation purposes.
  - 7) Price. The evaluated price will be computed based on the lumpsum freight rate plus one day demurrage plus any other costs set forth in the offer. The proposed price must be determined to be fair and reasonable.
  - 8) Subcontracting Plan (if required). For large businesses, unless determined that subcontracting possibilities do not exist, the Government will evaluate the Small Business Subcontracting Plan in accordance with FAR [52.219-9](#). Failure to submit and negotiate a subcontracting plan acceptable to the Contracting Officer will make the offeror ineligible for award of a contract.
- (b) *Options (if applicable)*. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. The evaluation of options does not obligate the Government to exercise the option(s).
- (c) *Notice of award*. A written notice of award or acceptance of an offer furnished to the successful Offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

## **PART XII. RESERVED**

**PART XIII. RESERVED**