

**MILITARY SEALIFT COMMAND
TUG CONTRACT (TUGCON – SPOT)
FEBRUARY 2026 (02-26)**

Preamble

1. This Request for Proposals (RFP) is a solicitation for offers to perform a contract in accordance with the terms and conditions herein.
2. The contract, when awarded, will consist of the completed Standard Form (SF) 1449, this Preamble, and Parts I through VI.
3. The signature of the Contracting Officer on SF1449 signifies acceptance of the contractor's proposal and award of the contract. The SF 1449 and Parts I through VI 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 contract date. In the event that there is any inconsistency between the terms and conditions of this solicitation and those in an offeror's proposal, this solicitation shall control, unless the offeror clearly indicates that it has offered terms and conditions inconsistent with this solicitation and the Government has accepted the changed terms and conditions. All references to boxes in Parts II through VI shall be to Part I boxes unless otherwise stated.
4. Each of the Parts or any portion thereof of this Charter Party shall be deemed severable, and should any Part or any portion thereof be held invalid, illegal, or unenforceable, the remaining Parts and portions thereof shall continue in full force and effect. The headings herein are for the sake of convenience and reference only, and shall not affect the interpretation of this Charter Party.

**MILITARY SEALIFT COMMAND
COMMERCIAL SERVICE ACQUISITION
TUGCON**

TABLE OF CONTENTS

PART

I. TUGCON BOXES

II. FAR 52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

III. TUGCON TERMS AND CONDITIONS

IV. FAR AND DFARS CLAUSES INCORPORATED BY REFERENCE

V. FAR AND DFARS PROVISIONS INCORPORATED BE REFERENCE

VI. RESERVED

VII. ATTACHMENTS

VIII. FAR 52.212-1 INSTRUCTIONS TO OFFERORS - COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

IX. FAR 52.212-2 EVALUATION - COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

X. RESERVED

XI. RESERVED

MSC TUGCON 2026

PART I. TUGCON BOXES

MSC TUGCON 2026		Tug(s):	
PART I. TUGCON BOXES		Contractor, UEI, CAGE Code, TIN (and TIN of parent, if applicable)	
		Solicitation Number (date):	
Contract Number (date):		1. Tug(s) Required:	
2. Description of the Tow:		2. Description of the Tow:	
Declared Value (USD):		Declared Value (USD):	
Riding Crew? [] Yes [] No		Riding Crew? [] Yes [] No	
3. Port(s)/Place(s) of Departure:		4. Laytime:	
		DAYS SHEX SSHEX SSHINC	
		<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
5. Port(s)/Place(s) of Destination:		6. Laydays:	
		Commencing:	
		Cancelling:	
7. Terms/Conditions/Attachments added, deleted or modified:			

Tug(s):	Solicitation number (date):			
	Contract Number (date):			
8. Tug/Flag/Year Built:/INMARSAT# or other Contact #	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 10):			
14. Laydays Proposed: Commencing: Cancelling:	15. Expected Ready to Present:			
16. Contemplated Route and Itinerary:				
17. Rates (USD)				
CLIN	Description	Unit	Quantity	Extended Price
(TBD at award)	Towage price (lumpsum)			
(TBD at award)	Demurrage (per day)			
(TBD at award)	Cost of Marine Surveyor (not to exceed)			

Tug(s) :		Solicitation Number (date):	
		Contract Number (date):	
18. Registered Owner (if other than as listed in Box 11):			
19. Current position/destination:		20. Nationality of Master and crew:	
21. Call Letters:		22. IMO number:	
23. Maximum Length:		24. Length between perpendiculars:	
a. (ft.)	b. (m)	a. (ft.)	b. (m)
25. Maximum Beam:		26. Maximum saltwater draft:	
a. (ft.)	b. (m)	a. (ft.)	b. (m)
27. Net registered tonnage:		28. Gross registered tonnage:	
29. Load line assigned (if any):		30. Vertical distance, waterline-plane to uppermost point of Tug:	
a. (ft.)	b. (m)	a. (ft.)	b. (m)
31. Classification Society entered, if any		32. Classification assigned, if any:	
33. USCG certification and regulatory status, if any:			
34. Insurer(s):			
PROPULSION			
35. Shaft Horsepower:	Verified by:	Verification date:	
36. Brake Horsepower:	Verified by:	Verification date:	
37. Bollard pull (pounds):	Verified by:	Verification date:	
38. Main engines/propellers (qty):	Manufactured by:	Drive Type/Tractor?	
39. Design Shaft RPM:			
SPEED			
40. Transit Speed (full speed, at 80% of the horsepower identified in Box 35, without Tow, in moderate weather):			
EQUIPMENT			
41. Description of towing gear and lifting equipment:			
42. Fire pump capacity (gpm):			
43. Capstan pull capacity (lbs. and fpm):			

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* (TAILORED).

1. In General. The Tug and associated equipment shall be subject to the Government's inspection as to suitability for the towage required under this contract prior to award of this contract and to subsequent inspections at any time during the currency of this contract to determine continuing suitability for the required services. The Owner shall instruct the Towing Vessel's Master to give every assistance so as to enable Hirer's inspector(s) to properly observe operations throughout the Tug.
2. Hirer's Rights. If in the opinion of the Hirer's inspector any deficiency or condition exists which renders the Tug inadequate for the required service, the Charterer shall have the option to cancel this contract at no cost to the Government or to require any necessary corrective actions at the Tug's expense and to the Hirer'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 Tug or which are imposed upon Owner by operation of law.
4. Cooperation of Master. The Hirer or designated representative(s) shall have the right at loading and/or discharging port(s) or place(s) to inspect the Tug 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 Tug properly. Hirer's representative(s) shall not interfere with the Tug's operations. Any delay to the Tug resulting from the Hirer's inspections shall count as laytime or, if the Tug is on demurrage, as time on demurrage.
5. Surveyors and Consultants. Surveyors or consultants, as mutually agreed, may be retained under this Hirer in order to facilitate fact-finding in respect of actual or potential claim actions or for inspections or surveys generally; the costs therefore shall be as mutually agreed and, if for Hirer'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 Tug, her Master, or Owner, nor the Charterer shall, unless otherwise in this contract 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 war; 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 Tug; flood; fire; blockade; riot, insurrection, or civil commotion; earthquake; or explosion.
2. Reservation. The exceptions identified in subparagraph (1) above shall not affect Owner's warranties respecting the condition of the Tug at the commencement of loading hereunder, or the Owner's obligations respecting the loading, handling, stowage, carriage, custody, care, and discharge of the cargo, or the rights or obligations of either Owner or Hirer respecting laytime or demurrage as elsewhere provided herein.
3. Necessary Deviation or Slow Steaming. If the Tug during the course of the towage hereunder puts into a port or place or seeks shelter or is detained or deviates from the original route identified in Part I, Box 16, or slow steams because either the Owner or Tug Master reasonably consider that
 - i. the Tow is not fit to be towed; or
 - ii. the Tow is incapable of being towed at the original speed contemplated by the Owner; or
 - iii. the towing connection requires rearrangement; or
 - iv. repairs or alterations or additional equipment for the Tow are required to safeguard the venture and enable the Tow to be towed to destination; or
 - v. would not be prudent to do otherwise on account of weather conditions actual or forecast; or because of any other good or valid reason outside the control of the

Tug Master or because of any delay caused by or at the request of the Hirer, this contract shall remain in full force and effect, and the Owner shall be entitled to receive from the Hirer additional compensation at the demurrage rate identified in Box 17 for all time spent at the port or place deviated and for all time spent by the Tug at sea in excess of the time which would have been spent had such slow steaming or deviation not taken place.

- (g) *Invoice.* The Government will handle invoices according to the Prompt Payment Act (31 U.S.C. 3903) and 5 CFR part 1315. The Contractor shall submit invoices to the address designated in the contract to receive invoices. An invoice must include the information required by 5 CFR part 1315.9(b).
- (h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees, and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.
- (i) *Payment—*
1. *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.
 2. *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.
 3. *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.
 4. *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—
 - i. Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—
 - (A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
 - (B) Affected contract number and delivery order number, if applicable;
 - (C) Affected line item or subline item, if applicable;
 - (D) Contractor point of contact; and

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

5. *Interest.*

- i. All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.
- ii. The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.
- iii. *Final decisions.* The Contracting Officer will issue a final decision as required by FAR part 33 if–
 - (A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;
 - (B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or
 - (C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see FAR part 32).
- iv. If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.
- v. Amounts shall be due at the earliest of the following dates:
 - (A) The date fixed under this contract.
 - (B) The date of the first written demand for payment, including any demand for payment resulting from a termination for cause.
- vi. The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on–
 - (A) The date on which the designated office receives payment from the Contractor;

- (B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or
 - (C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.
- vii. The interest charge made under this clause may be reduced under the procedures for interest credits prescribed in FAR part 32 in effect on the date of this contract.
6. (TAILORED) All invoices' shall include supporting, documentation supporting in at a minimum include:
- i. Provide conversion rate of foreign currency to US dollar on the last date of services rendered (copy of online currency conversion website).
 - ii. For port expense invoices provide cover sheet to supporting documentation that states only those services for charterer's account in the foreign currency and conversion to US dollar on the last date of services rendered.
 - iii. Limit one port visit per invoice submission, multiple port visit invoices will be rejected.
 - iv. For any port expense presented in a foreign language, the following conditions must be satisfied to be considered for Government reimbursement:
 - (A) At a minimum, all port charges for which reimbursement is sought must be translated into English. In lieu of direct translation on the invoice, an itemized list of the charges in English is acceptable. This list must clearly identify and cross-reference with supporting documentation for each charge.
 - (B) All invoices and accompanying supporting documents must be clear, legible, and easy to understand. Any invoice or supporting document that is not readily comprehensible will be rejected.
- (j) *Risk of Loss - Towing Liability (TAILORED)*
1. Any and all associated costs with the following shall be for the sole account of the Owner without recourse to the Government, provided any of the following results during the performance of services under this contract or preparation therefor from any negligence, wrongful act, or omission of Owner or its agents, servants, employees, or subcontractors; or from any unseaworthiness, unfitness, or breakdown of any Tug, gear, or other equipment furnished by Owner under this contract: (a) injury or death of Master or crew of the Tug or captain, officers, or crew of the Tow;

- (b) injury or death of any person aboard the Tug or Tow; (c) loss or damage of whatsoever nature sustained by the Tug or Tow or any property aboard the Tug or Tow; (d) loss or damage of whatsoever nature caused to or suffered by third parties or their property by reason of contact with the Tug or Tow or by an obstruction created by the presence of the Tug or Tow; (e) any liability in respect of wreck removal for the Tug or Tow or in respect of the expense of moving or lightening or buoying the Tug or Tow or in respect of preventing or abating pollution originating from the Tug.
2. Whenever the Master (or any crew) of any Tug furnished or engaged in furnishing Tug power or assistance to any vessel (which vessel utilizes or has readily available her own propulsion capacity) goes aboard said vessel, or when any licensed pilot goes aboard said vessel, said Master, crew member or licensed pilot becomes the servant of the Owner of said assisted vessel in respect of the giving of orders to any of the Tugs provided for or engaged in said services and in respect of the handling of the vessel. Further, neither those providing the Tug or pilot, nor the Tug, its Owners, charters, operators, manager, or agents shall same be liable for any damage resulting therefrom, unless said damage is caused or results from the negligence or wrongful act or omission of the Tug Owners, Hirers, operators, managers, employees, or agents of those furnishing the Tug or pilot.
 3. In all instances in which any vessel being handled by Owner's Tug sustains damage or is involved in any incident resulting in damage to vessels or property or in bodily injury or death, Owner shall secure a report from the Master or officer acting as pilot or from any licensed pilot aboard the vessel being handled. Owner shall submit said report in triplicate to the Contracting Officer within 24 hours following said incident, reporting the facts, listing deaths, reporting the extent of damages or bodily injuries, and listing recommendations to prevent recurrence.
- (k) *Taxes.* (TAILORED) The contract price includes all applicable Federal, State, and local taxes and duties except as otherwise provided in this Charter Party.
- (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 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 contract, the Tug shall be in full compliance with the specifications herein in addition to all other requirements of this contract. The Tug’s capacity, position, and other particulars as set forth in this contract are warranties by the Owner. Should the Tug fail to satisfy one or more of such warranties or other warranties contained in this section not due to the fault of the Hirer, the freight may be equitably decreased so as to return the Hirer to a position equivalent to that had the warranty not been breached, this contract otherwise to remain unaffected; alternatively, this contract may in such case be terminated at Hirer’s option pursuant to paragraph (m) (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 Tug and her hull, machinery, boilers, towing equipment, and other equipment are fully functional and in good working order and condition, and that the Tug is in every way seaworthy, tight, staunch, strong, and fit to perform the Tow identified in Box 2 and the voyage(s) required hereunder.

3. Regulatory Compliance. The Owner warrants that the Tug 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) to whose port(s) and/or place(s) the Tug may be ordered under this contract; and of any terminals or facilities in said port(s) and/or place(s); and of any classification society in which the Tug is entered. The Owner further warrants that the Tug shall have on board during the currency of this contract 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 contract, Tug shall be entered and maintained in the highest class of a recognized classification society.
 4. Complement. The Owner warrants that the Tug shall have an efficient and legally sufficient complement of Master and crew with adequate training and experience in towage operation of all of the Tug's equipment and possess valid and current certificates/documents issued or approved by the country of the Tug's registry. The Tug Master and entire crew of the Tug shall be appointed or hired by the Owner and shall be deemed to be servants and agents of the Owner at all times except as otherwise specified in this contract. The Tug Master shall be proficient with conversational English.
 5. Towing Gear. Towing bridle sufficient for the Tow identified in Box 2 shall be furnished by the Owner. Additionally, the Owner shall provide for Hirer's use, at no additional cost, all towing hawsers, bridles, winches, and other towing gear actually aboard the Tug.
 6. 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 Tug 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 Owner in any RFP or this contract 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.
- (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 I);
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.

(End of clause)

PART III. TUGCON TERMS AND CONDITIONS (Addendum to FAR 52.212-4)

a. General Definitions

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

“BHP” – Brake horsepower

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

“Cancelling Date” - Identified in Box 6

“CFE” - Contractor-Furnished Equipment

“CFR” - Code of Federal Regulations

“CHOP” - Charterer's Option

“Commencing Date” - Identified in Box 6

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

“COMSCINST” - COMSC Instruction (publication)

“Contract” – This document including parts I - XI

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

“Contracting Officer's Representative (COR) DFARS 202.101, Oct 2016” - means an individual designated and authorized in writing by the contracting officer to perform specific technical or administrative functions.

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

“Contractor” – Interchangeable with “Owner”

“Crew” – of the Tug identified in Part I

“Dead Tow” – See “Flat tow” below

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

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

“**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

“**Flat Tow**” – Tow which does not have her own propulsion available for use

“**fpm**” – feet per minute

“**GFP**” - Government-Furnished Property (see FAR 52.245-2 in Part VIII)

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

“**gpm**” – gallons per minute

“**Hirer**” – The United States of America

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

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

“**Laytime**” - The period of time agreed in Box 4 during which the Owner will make and keep the Tug available for delivery or redelivery of the Tow and for all other Hirer’s purposes without payment additional to the towage price

“**Live Tow**” – a Tow under her propulsion or which has her own propulsion available for use

“**LOA**” – Length Overall

“**Moderate Weather**” – Conditions up to and including Sea State 3 (Beaufort Scale)

“**MSC**” - Military Sealift Command, interchangeable with "COMSC"

“**MSCLANT**” - Military Sealift Command, Atlantic

“**MSCPAC**” - Military Sealift Command, Pacific

“**MSCEUR**” - Military Sealift Command, Europe

“**MSCFE**” - Military Sealift Command, Far East

“Owner” - That entity exercising commercial control of the Tug identified in Box 8; interchangeable with "contractor" and "offeror," and to include despondent owners and all the ship owner’s and despondent owner's agents, employees, independent contractors, Master, Officers, and crew

“P&I” - Maritime Protection and Indemnity Insurance

“Place” – any berth, dock, anchorage, wharf, open roadstead, submarine line, or alongside any vessel, barge, lighter, submarine, craft, hull, derrick, or object of whatsoever nature, or any other place whatsoever to which the Government is entitled to direct the Tug hereunder

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

"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.

“SHP” – Shaft horsepower

"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.

"SWL" - Safe Working Load

"Tow" – identified in Box 6

"Tug" – identified in Part I

"Tugmaster" – of the Tug(s) identified in Part I

"USCG" – United States Coast Guard

"Weather permitting" – Time during which weather actually prevents working shall not count as laytime

b. Towage Price

1. Lumpsum towage price shall be stipulated in Box 17, and deemed to include the cost of fuel, lubricants, towing gear, port charges, Tug Master, and crew required for the service contemplated herein, and for all costs associated with the Contractor complying with requirements of this solicitation including those requirements delineated above in PART I, Box 7
2. Towage price shall not be considered earned until the release of the Tow at the port or place of destination.

c. Demurrage

1. Rate. Demurrage shall be at the rate stipulated in Box 17.
2. When Earned. The Hirer shall pay demurrage per running day (and pro rata for any part thereof) at the rate identified in Box 17 for all time by which allowed laytime allowed in Paragraph III(g) exceeds time on demurrage under the contract for (a) tender of the tow by Hirer at port of departure; (b) acceptance of redelivery of the Tow by Hirer at port of destination; and (c) all other Hirer's purposes.

d. Tow-Worthiness of the Tow.

1. Hirer shall exercise due diligence that the Tow at the commencement of its towage be in a proper condition for the towage contemplated and be suitable trimmed and prepared and ready to be towed and fitted and equipped with such shapes, signals, navigational and other lights, all of a type required for this towage.
2. Prior to commencement of the towage hereunder, a recognized, independent marine surveyor, as mutually agreed by Hirer and Owner, shall have issued an unconditional certificate of tow worthiness for the Tow and a determination that same is properly made up,

provided always that the Owner shall be under no obligation to perform the towage contemplated until, and in his discretion, he is satisfied that that Tow is in all respects trimmed, prepared, fit, and ready for the towage.

3. Independent Marine Surveyor (IMS) must have prior experience towing military cargo and completing the Comprehensive Tow Package IAW the U.S Navy Tow Manual. Independent Marine Surveyor and an MSC representative must approve the Comprehensive Tow Package, prepared IAW the Navy Tow Manual, prior to tug on hire (submitted to iben.gantt@navy.mil and timothy.c.vickers@navy.mil).

e. Ports

1. Unless otherwise agreed, the Tug shall proceed with utmost dispatch to that port(s) or place(s) ordered by the Hirer in accordance with Box 3, and the Hirer shall there tender the Tow identified in Box 2. Upon completion of connecting the Tow and signing the necessary documents, the Tug and Tow shall proceed with utmost dispatch to the port(s) or place(s) of destination ordered by Hirer in accordance with Box 5 and there tender the Tow, which shall be accepted forthwith and taken over by Hirer. The precise ports or places of departure and destination shall always be safe and accessible for the Tug to enter, operate, and for Tug and Tow to leave, and shall be a place where Tug is permitted to, respectively, connect or release the Tow.
2. Routing/Speed Orders. Should the Hirer 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 Tug is on demurrage, as time on demurrage. In addition, the Hirer shall reimburse the Owner the cost of any extra fuel consumed as a consequence of any such delay at the market price where and when bunkers are next taken.

f. Notice of Readiness

- 1) When the Tug has arrived at the ordered ports or places of departure or destination (or at the usual waiting place if the Tug cannot enter, berth, or approach the Tow by reason of any cause beyond Owner's control) and is fully ready to connect or release the Tow as applicable, a notice of readiness shall be tendered to the Hirer's representative at the port by the Tug Master or Owner's agent by letter, electronic mail, radio, or telephone. An oral notice shall be promptly confirmed in writing.

g. Laytime/Demurrage

1. Commencement/Resumption.

- i. First or sole port(s) or place(s) of departure or destination. 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. First discharge port. . Laytime, or if the Tug is on demurrage, shall start or resume upon arrival designated destination port turnover site, upon tendering a proper notice of readiness and Tug is within one hour for which the tug turnover shall start.
 - iii. Before laydays. Laytime shall not commence before 0800 hours local time on the commencing date identified in Box 4 unless the Hirer shall consent, in which case laytime shall commence upon Tug'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 Notice of Readiness 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. The laytime stipulated in Box 4, in working days of twenty-four running hours weather permitting, shall be permitted free of expense to the Hirer for the purposes of tender of the Tow, acceptance of Tow at destination, connection of the Tow, release of the Tow, and for all other Hirer's purposes. At port or place of departure, said laytime shall continue to count until the Tug and Tow leave said port or place. At port or place of destination, said laytime shall continue to count until the Tug is free to leave said port or place.
3. Time Excluded
- i. Notwithstanding any other provision of this contract to the contrary, time shall not count as laytime or, if the Tug is on demurrage, as time on demurrage, if such time is spent or lost:
 - A. As a consequence of the breach of any of Owner's warranties contained in this contract and not due to the fault of the Hirer, or any other breakdown, inefficiency, or any other condition whatsoever preventing the fitness of the Tug for the service contemplated and not due to the fault of the Hirer;
 - B. As a consequence of any negligence or default whatsoever affecting the working of the Tug by the Owner, Master, or crew of the Tug, including any labor dispute, labor disruption, strike, go slow, lockout, work to rule, stoppage, or restraint of labor of the Master or crew;
 - C. As a consequence of the Owner or port authority prohibiting hookup or drop off of the Tow, or as a consequence of any other mandatory regulations;
 - D. As a consequence of moving from a waiting place on an inward passage to the nominated port or place of departure or destination;
4. Half-Time. Any time excepted from laytime by Box 4 shall, to the extent used, count as half time or, should the Tug be on demurrage, time excepted but so used shall be payable at one-half the demurrage rate.

h. Insurance

1. Requirement. During the currency of this contract, the Owner shall have in place marine insurance coverage on the Tug including Hull and Machinery; Protection and Indemnity (P&I), including pollution (minimum coverage for damage to the Tow equaling USD 5,000,000.00 or the value of the Tow declared in Box 2, at Government's sole option declarable prior to the contract date); War Risk Hull and Machinery; War Risk P&I; Second Seamen's War Risk Policy (the principal sum of which shall be \$200,000.00 per Master, Officer, or crew member); and Broad Form Towage's Liability Insurance (minimum cover for damage to the Tow equaling USD 5,000,000.00 or the value of the Tow declared in Box 2, at the Government's sole option declarable prior to the contract date). Owner shall, when requested, furnish a Certificate of Insurance evidencing required coverage. Except as otherwise provided in this contract, the expense for such insurance coverages shall be for the Owner's account and shall be deemed to be included in the towage price payable under this contract.
2. Trading Limits. If Tug is sent beyond the limits of American Institute Trade Warranties or Institute Warranties (as applicable to Owner's coverage) under this contract, Hirer agrees to reimburse Owner for the actual extra cost of additional premiums and/or increased deductible levels, to the extent incurred, properly assessed by the Tug's marine insurance underwriters and payable by the Owner, which extra cost is occasioned by the Tug's trading beyond such limits.
3. Vitiation, Suspension, Lapse, or Termination. In the event any or any part of the insurance required by the above Paragraph III(h)(1) or provided under a governmental program shall become vitiated, suspended, lapsed, or terminated from any cause arising out of or as a result of orders, acts, or omissions of the Hirer or any persons properly acting for the Hirer, the Hirer shall indemnify the Owner against any loss, damage, or expense suffered or sustained by it as a result of such violation, suspension, lapse, or termination; however, Owner shall credit the Hirer with any savings in respect of such premiums from the time of such vitiation, suspension, lapse, or termination. The value of the Tug shall be the aggregate valuation of the Tug stated in the marine risk insurance policy, policies, or binders carried by the Owner on the contract date, or if no marine insurance was carried at that date, such valuation as shall be agreed up on by the Owner and the Contracting Officer (and a dispute of fact under the Contract Disputes Act of 1978, failing such agreement).
4. Limitation of Owner's Liability. Except as otherwise specifically provided herein, the Hirer shall indemnify and hold harmless the Owner, Tug Master, and the Tug from losses, expenses, and liabilities proximately caused by compliance with any orders or directions of the Hirer or its representatives or employees except those properly chargeable to the Owner under other provisions of this contract or which are recoverable under any insurance carried by the Owner. The Owner shall as far as may be practicable keep the Hirer, through the Contracting Officer, currently informed in writing as to any oral orders (involving substantial delays, expense or risk to the Tug or her cargo), which have not been promptly confirmed in writing by the person giving such orders. The Hirer's liability shall not exceed 150% of the fair market value of the Tug at the time of the loss less whatever amounts are recovered from the underwriters or other parties. The fair market value shall be determined

by the Contracting Officer and shall be deemed a dispute of fact under the Contract Disputes Act of 1978 if the Owner questions such determination.

5. Limitation of Hirer's Liability. Except as otherwise specifically provided herein, the Hirer shall not be liable for any loss, damage, expense, cost, or liability whatsoever and howsoever incurred by the Owner or Tug which is recoverable under any insurance carried by the Owner or which would have been recoverable under insurance required by Paragraph III(h)(1) herein had the Owner not elected to be a self-insurer in whole or in part.
6. Notification to Hirer. Owner shall, to the maximum extent practicable, keep the Hirer, through the Contracting Officer, currently informed in writing as to the potential vitiation, suspension, lapse, or termination of any of Tug's insurance policies as a consequence of this contract.
7. Availability of Funds. Any liability of the Government under this paragraph shall be limited to funds available in the Military Sealift Command's portion of the Navy Industrial Fund.
8. Additional Assured/P&I Insurance for Charterer's Risks. The United States of America shall be named as an additional assured with waiver of subrogation under Owner's Tower's Liability Policy, Hull and Machinery Policy, War Risk Hull and Machinery policy, and Second Seaman's War Risk policy. Further, the contractor shall obtain P&I Insurance for Charterer's Risks with P&I War Risk coverage for the United States of America (as Hirer) covering all risks typically covered by P&I Insurance for Charterer's Risks.

i. War

1. Requirement. If Tug is ordered under this contract to any port, place, zone, or route involved in a state of war, warlike operations or hostilities, civil strife or piracy (whether there be a declaration of war or not), where it might reasonably be expected to be subject to capture, seizure, arrest, or hostile act by a belligerent power (whether de facto or de jure), it shall be unreasonable for Owner not to prosecute said voyage instructions if insurance against said risks is then available commercially or under a Government program, including but not limited to War Risk insurance available through MARAD, or if the Government offers owner an indemnity under Public Law 85-804 against losses that would be covered by such insurance. In the event of the existence of said risks, Hirer shall, to the extent provided in this paragraph (i), assume provable additional costs of wages (including all additional bonuses and payments required) and insurance and all taxes associated therewith properly incurred by Owner as a consequence of service under this contract.
2. Additional Wage Costs. Hirer shall reimburse Owner for provable additional costs (including taxes associated therewith) incurred pursuant to this contract as a consequence of the risks identified in subparagraph (1) above for (i) wages of Master or crew and (ii) required payments or bonuses to Master or crew. However, any of said wages or payments shall not exceed in amount that which would be payable, under applicable laws and regulations, to U.S. Civil Service mariners in the employ of the Military Sealift Command in the same port, place, zone, or route.

3. Additional Insurance Costs. Hirer shall reimburse Owner for provable additional costs of premiums and taxes associated therewith (over and above such costs in effect on the contract date) reasonably incurred pursuant to this contract as a consequence of the risks identified in subparagraph (i)(1) above in the Tug's War Risk Hull & Machinery policy, in the Tug's War Risk Protection & Indemnity policy, and in any war risk policy on the lives of or for injuries to the crew. Provided, however, that no proportion of additional premiums allocable to insuring an amount in excess of the insured value of the Tug (as of the contract date) may be reimbursable by Hirer in respect of any of the foregoing war risk policies. Provided further that Owner may apply for and remit to Hirer as savings any rebates by reason of Tug trading in lower-premium war risk areas. Provided further that the United States of America may 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 exclusion zones (war, strikes, terrorism and related perils) listed areas under Owner's commercial war risk insurance coverage, in Hirer's sole option and at no cost to the Government, Hirer may delete this subparagraph (i)(3) with twenty-four hours' notice in which case 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 contract covering the risks identified in subparagraph (i)(1) above, Tug shall not be required to enter or remain at any port, place, zone, or route subject to said risks; Hirer in such case shall have the right to order the Tug to other port(s) or place(s) consistent with Boxes 3 and 5 herein.
5. Changes. Owner must immediately notify Hirer of any changes in the Tug's commercial war risk insurance, including but not limited to, extensions of war risk exclusion zones and increases in commercial war risk insurance premiums. Owners must secure Hirer's permission prior to entry into any commercial war risk exclusion zones before incurring liability for additional premiums.

j. Salvage.

1. In the event of the Tow breaking away from the Tug, the Tug shall stand by and render all reasonable services to reconnect the tow line and fulfill this contract of towage without making any claim for salvage.
2. 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.
3. 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:
 - i. 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.

- ii. 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).
- 4. It is understood that this limited Supervisor of Salvage claim is asserted against the vessel only, is solely for the vessel's account, and does not include any amounts for the salvage of the Government's cargo. Notwithstanding any other provisions of this contract, this limited Supervisor of Salvage claim IS NOT directly or by way of setoff chargeable in whole or in part to the Government by way of general average or otherwise.”
- k. Position Reports. Position reports shall be issued by electronic mail: Vessel shall provide position/status report in port twice daily at 0000Z and 1200Z and at-sea four times daily at 0000Z, 0600Z, 1200Z, and 1800Z. Additionally, Position/Status Reports shall also be sent upon arrival port, upon departure port and at other times requested by the applicable MSC Area Command for Force Protection reasons. Reports shall be sent to the following email addresses: mschq.bwc.fct@navy.mil , msc.cop.fct@navy.mil, iben.gantt@navy.mil, timothy.c.vickers@navy.mil, richard.appling@navy.mil,bernie.donathan@navy.mil, and bob.gregory@navy.mil
- l. Nature of Contract. This contract is for towage services and shall not be construed as a charter of the Tug.
- m. Statutory Exemptions. Any provisions of this contract to the contrary notwithstanding the Owner and the Tug shall have the benefit of all limitation of and exemptions from liability accorded to the Owner or demise Hirer of vessels by any statute or rule of law for the time being in force.
- n. Permits and Certification. Apart from the certificate or tow-worthiness, Hirer shall arrange for its (Hirer’s) account and provide the Owner all necessary licenses, authorizations, and permits required by the Tug and Tow to undertake and complete the towage contemplated, together with all necessary certification for the Tow to enter or leave any or all ports of call or refuge on the contemplated voyage. Any loss or expense incurred by the Owner by reason of the Hirer’s failure to comply with this paragraph shall be reimbursed by Hirer to the Owner, and any delays caused thereby shall be compensated at the demurrage rate stipulated in Box 17.
- o. Riding Crew. In the event Owner provides a riding crew for the Tow, such crew and their suitability for the work shall be at the Owner’s discretion with all expenses therefor for Owner’s account, and the same shall not be deemed to be servants, agents, or employees of the Owner.
- p. Cancelling
 - 1. Late Notice of Readiness. If a valid notice of readiness as required under this contract is not tendered by 1700 hours local time on the cancelling date identified in Box 6 at the port or place ordered, the Hirer shall have the right to cancel this contract at no cost to the Government. Hirer’s right to cancel this contract 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 Hirer makes said notification.

2. Declaration of Cancellation Option. If it shall become clear to Owner that the Tug will be delayed in arrival beyond the cancelling date identified in Box 6, Owner may, at the earliest seventy-two (72) hours before the Tug 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 ask Hirer whether the option of cancellation will be exercised. Hirer'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 Hirer shall not cancel this contract 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 nonexercise by Hirer of the cancellation option shall not prejudice any claim or right which Hirer may otherwise have against Owner.

q. Ice

1. General. The Tug 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 Tug's arrival are (or are likely to be) withdrawn by reason of ice. The Tug 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 Hirer requesting revised orders and shall remain outside the ice-bound area. If there is danger of the Tug being frozen in at any nominated port or place, the Tug shall, at Tug Master's discretion, proceed with the Tow to the nearest safe and ice-free position, at the same time requesting Hirer's revised orders. If such nominated port or place in question is:
 - i. The port or place of departure and the Tow has not been connected, Hirer shall have the option of nominating an alternative port or place of departure, or of cancelling this contract;
 - ii. The port or place of destination, Hirer shall have the option of nominating an alternative port or place of destination, or of ordering the Tug 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 Hirer's rights under this paragraph:
 - i. he contract is cancelled, time lost during the period from when the request for revised orders was received by Hirer, or from the time when the Tug arrived and gave notice of readiness (whichever is earlier), until the time when Owner received notice of such cancellation shall count as laytime or, if the Tug is on demurrage, as time on demurrage; 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 Tug's in-port bunker consumption during said period;
 - ii. The voyage is changed, towage price shall nevertheless be payable for the voyage that would have been performed but for such change, 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 Tug tenders the Tow at the nominated port or place of destination, this shall be at Hirer's risk, and the whole period from the time the Master's request for revised orders was received by Hirer until the Tug can safely depart after releasing the Tow shall count as laytime.
- iv. Any loss or damage is caused to the Tug by ice which would be recoverable under the terms of a full-force marine hull insurance policy, but which is excluded from such policy by American Institute Trade Warranties or Institute Warranties (as applicable to Owner's coverage), shall be made good by the Hirer to the extent not covered by insurance.
- r. Quarantine. If at the time of Hirer's nomination of a port, quarantine is in force at the nominated port, any time thereby lost by the Tug on account of quarantine shall count as laytime or, if the Tug 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 Tug shall count as laytime, but full time shall count for demurrage if the Tug is on demurrage upon its arrival in such port or place.
- s. Amended Jason Clause. In the event of accident, danger, damage, or disaster before or after commencement of any voyage under this contract resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequence of which the Owner is not responsible by statute, contract, or otherwise, Hirer, the Tow, shippers, consignees, or owners of the Tow shall contribute with the Owner in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the Tow. If a salving Vessel is owned or operated by the Owner, salvage shall be paid for as fully as if the salving Vessel belonged to strangers.
- t. General Average. General average shall be adjusted, stated, and settled according to York-Antwerp Rules 1974, as amended 1990, or any subsequent modification thereof, in the Port of New York according to the laws and usages at the port of New York. In such adjustment, disbursements in foreign currencies shall be exchanged into United States money at the rate prevailing on the dates made and allowances for damage to the Tow claimed in foreign currency shall be converted at the rate prevailing on the last day of the release of the Tow at the port or place of destination of such damaged Tow from the Tug. Notwithstanding the foregoing, Hirer's contributions in general average shall in no event exceed three times Owner's contributions for any single general average incident.
- u. Time Sheets. Attachment VII(a) shall be completed and signed by Owner at ports of departure and destination for countersignature at said ports by Hirer's representative. An executed, original Attachment VII(a) shall accompany any claim for demurrage under this contract.

- v. Deviation. The Tug shall have liberty to sail with or without pilots, to tow or to be towed, to go to the assistance of vessels in distress, to deviate for the purpose of saving life or property or of landing any ill or injured person on board, and to call any port or place for emergency repairs, supplies, or necessities. Any salvage shall be for the sole benefit of the Owner.
- w. Agents. The Owner shall appoint, direct, and pay Tug's agents at all ports visited.
- x. Subcontract. The Hirer shall have the right, without the prior written consent of the Owner, to subcontract or agree to subcontract the Tug. If Hirer shall enter into any such contract, Hirer shall nevertheless remain responsible for performance of this contract. Any such subcontract shall include a provision that it is subject to the provisions of this contract.
- y. Substitution. The Owner may at any time propose to substitute a vessel of substantially the same characteristics as the Tug identified at Box 8, for services under this contract. Approval of any said substitution shall be at the sole discretion of the Contracting Officer and at no additional cost to the Government.
- z. 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 were 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 each 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.

aa. 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 were 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 each 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.

ab. *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.

ac. **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.

ad. **Reserved**

ae. **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.

af. **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.

ag. (check as appropriate) **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.

ah. **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. FAR AND DFARS CLAUSES INCORPORATED BY REFERENCE

(a) FAR 52.252-2 Clauses Incorporated by Reference

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

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

(End of clause)

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

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

- 52.219-16 Liquidated Damages—Subcontracting Plan
- 52.219-27 Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program
- 52.219-28 Postaward Small Business Program Representation
- 52.219-29 Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns
- 52.219-30 Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program
- 52.222-3 Convict Labor
- 52.222-19 Child Labor—Cooperation with Authorities and Remedies
- 52.222-35 Equal Opportunity for Veterans
- 52.222-36 Equal Opportunity for Workers with Disabilities
- 52.222-37 Employment Reports on Veterans
- 52.222-40 Notification of Employee Rights Under the National Labor Relations Act
- 52.222-41 Service Contracts Labor Standards
- 52.222-42 Statement of Equivalent Rates for Federal Hires
- 52.222-43 Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts)
- 52.222-44 Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment
- 52.222-50 Combating Trafficking in Persons
- 52.222-53 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 V. FAR AND DFARS PROVISIONS INCORPORATED BY REFERENCE

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

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

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

(End of provision)

(b) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) provisions, which, if checked (“X”), are incorporated in this solicitation by reference. The applicable 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 VI. RESERVED

PART VII. ATTACHMENTS – TUG CONTRACT

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

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.

(b) Attachment VII(B) US Department of Labor Wage Determination

(c) Attachment VII(C) Shipyard Data Information Spreadsheet; As outlined in relevant Parts VII X, 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 VII(A) STANDARD STATEMENT OF FACTS

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

**ATTACHMENT VII(C)
SHIPYARD DATA INFORMATION TEMPLATE
(TO BE ADDED AS APPLICABLE)**

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

- a. *Submission of offers.* (TAILORED) Submit signed and dated offers to the 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—
- (1) 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) (Tailored) Set of completed boxes found at TUGCON PROFORMA Part I, pages I-1 through I-4, as applicable and at a minimum:
- (i) Vessel's INMARSAT # (TUGCON Box 8)
 - (ii) Vessel's call letters (TUGCON Box 21)
 - (iii) Vessel's IMO (TUGCON Box 22)
 - (iv) Year of Vessel (TUGCON Box 8)
 - (v) Flag of Vessel (TUGCON Box 8)
 - (vi) Proposed lay days (TUGCON Box 15)
 - (vii) Compliance with/acknowledgements pursuant to Part XI(a)(6) below.
 - (viii) Acknowledgement of all terms and conditions of RFP and TUGCON Proforma.
 - (ix) Lump-sum price and demurrage rate (TUGCON Box 17)
 - (x) Name and email address for Contractor Performance Assessment Reporting System (CPARS) (TUGCON Box 11)
 - (xi) Completed FAR 52.209-7 – Information Regarding Responsibility Matters (See TUGCON Part X; by maintaining an

- active entity registration in SAM, the entity complied with requirements to report proceedings data IAW this clause.)
- (xii) Completed FAR 52.209-11 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction Under any Federal Law (See TUGCON Part X; submission in SAM fulfills this requirement.)
- (xiii) Any documentation, if required, by Part I, Box 7.(xvi)
- (xiv) Completed FAR 52.229-11 Tax on Certain Foreign Procurements—Notice and Representation
- (xv) Certification required pursuant to FAR 52.222-56.
- (xvi) Completed DFARS 252.204-7016 Covered Defense Telecommunications Equipment or Services—Representation
- (xvii) Completed DFARS 252.204-7017 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services— Representation, if applicable.
- (xviii) Company’s CAGE Code
- (xix) Provide vessel’s itinerary confirming the vessel can meet the layday(s).
- (xx) Completed FAR 52.209-5; a (submission in SAM fulfills this requirement.)

b. *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.

c. *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.
- d. *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.
- e. *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.
- f. *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.
- g. *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.
- h. *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.

- i. *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.
- j. *Vessel Name Release.* For the purpose of obtaining timely country clearance, vessel names under consideration for award may be released to partner U.S. or foreign government agencies prior to contract award.
- 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 IX. FAR 52.212-2 EVALUATION -- COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DOW DEVIATION 01 FEB 26) (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, TUGCON Boxes 1 through 6. Owner/Offeror shall address all items of Boxes 1 through 6 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, 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. Evaluation of options shall not obligate the Government to exercise the option(s).
 - c. Notice of Award. A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

PART X. RESERVED

PART XI. RESERVED