

**UNITED STATES TRANSPORTATION  
COMMAND (USTRANSCOM)**

**Contract: HTC711-08-D-5000  
1 October 2008**

**Alliance Team Contract  
International Airlift Services & Civil Reserve Air Fleet**

**Awarded to: Evergreen International Airlines, Inc.**

| <b>AWARD/CONTRACT</b>   |                        | 1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)   |           | RATING   | PAGE 1 OF 1 PAGES         |  |         |
|---|------------------------|---|-----------|--|---------------------------|--|---------|
| 2. CONTRACT (Proc. Inst. Ident.) NO.<br><b>HTC711-08-D-5000</b>   |                        | 3. EFFECTIVE DATE<br><b>01/Oct/2008</b>   |           | 4. REQUISITION/PURCHASE REQUEST/PROJECT NO.<br><b>See Schedule</b>   |                           |  |         |
| 5. ISSUED BY<br><b>USTRANSCOM/TCAQ-CP</b><br><b>508 Scott Drive</b><br><b>Scott AFB, IL 62225-5357</b>  |                        | 6. ADMINISTERED BY (If other than Item 5)<br><b>USTRANSCOM/TCAQ-CM</b><br><b>508 Scott Drive</b><br><b>Scott AFB, IL 62225-5357</b> |           | CODE <b>HTC711</b>   |                           |  |         |
| 7. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)<br><b>EVERGREEN INTERNATIONAL AIRLINES, INC.</b><br><b>DBA ALLIANCE CONTRACTOR TEAM</b><br><b>213 LOUDOUN STREET, SW</b><br><b>LEESBURG, VA 20175-2718</b>  |                        |   |           |  |                           |  |         |
| 8. DELIVERY<br><input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)  |                        |   |           |  |                           |  |         |
| 9. DISCOUNT FOR PROMPT PAYMENT<br><b>NET 15</b>   |                        |   |           |  |                           |  |         |
| 10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN<br><b>WAWT</b>  |                        |   |           |  |                           |  |         |
| CODE <b>3Q2H3</b>   |                        | FACILITY CODE   |           | 12. PAYMENT WILL BE MADE BY<br><b>DPAS-LIMESTONE/DPAS-BASD/CC</b><br><b>P.O. BOX 369020</b><br><b>LIMESTONE PAYING OFFICE</b><br><b>COLUMBUS, OH 43236-9020</b>  |                           |  |         |
| 11. SHIP TO/MARK FOR<br>CODE  |                        | CODE  |           | CODE <b>F67100</b>   |                           |  |         |
| 13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:<br><input checked="" type="checkbox"/> 10 U.S.C. 2304(c) ( 3 ) <input type="checkbox"/> 41 U.S.C. 253(c) ( )  |                        |   |           |  |                           |  |         |
| 14. ACCOUNTING AND APPROPRIATION DATA<br>Will be cited on Delivery Orders   |                        |   |           |  |                           |  |         |
| 15A. ITEM NO.   | 15B. SUPPLIES/SERVICES | 15C. QUANTITY   | 15D. UNIT | 15E. UNIT PRICE  | 15F. AMOUNT               |  |         |
|   | SEE SCHEDULE           |   |           |  | (ESTIMATED)               |  |         |
| 15G. TOTAL AMOUNT OF CONTRACT   |                        |   |           |  | <b>\$1,351,414,857.64</b> |  |         |
| 16. TABLE OF CONTENTS   |                        |   |           |  |                           |  |         |
| (X)   | SEC.                   | DESCRIPTION   | PAGE(S)   | (X)  | SEC.                      | DESCRIPTION  | PAGE(S) |
| PART I - THE SCHEDULE   |                        |   |           | PART II - CONTRACT CLAUSES   |                           |  |         |
| X   | A                      | SOLICITATION/CONTRACT FORM  | 1         | X  | I                         | CONTRACT CLAUSES   | 13      |
| X   | B                      | SUPPLIES OR SERVICES AND PRICES/COSTS   | 14        | PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.   |                           |  |         |
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| 19A. NAME AND TITLE OF SIGNER (Type or print)<br><b>George E. Coyle</b><br><b>D. A. M. 1960th Sales</b>   |                        |   |           | 20A. NAME OF CONTRACTING OFFICER<br><b>OLIVIA L. HITSMAN</b><br><b>lucy.hitsman@amc.af.mil</b> (618) 229-2511  |                           |  |         |
| 19B. NAME OF CONTRACTOR<br>(b)(6)   |                        |   |           | 20B. UNITED STATES OF AMERICA<br>BY <b>Olivia L. Hitsman</b><br>(Signature of Contracting Officer)   |                           |  |         |
| 19C. DATE SIGNED<br><b>9-2-08</b>   |                        |   |           | 20C. DATE SIGNED<br><b>08 SEP 2008</b>   |                           |  |         |
| Signature of person authorized to sign  |                        |   |           |  |                           |  |         |
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| 19B. NAME OF CONTRACTOR<br>(b)(6)   |                        | 19C. DATE SIGNED<br><b>29/8/2008</b>   |           | 20B. UNITED STATES OF AMERICA<br><i>Olivia L. Hitsman</i><br>(Signature of Contracting Officer)  |                           | 20C. DATE SIGNED<br><b>08 SEP 2008</b>                           |         |
| BY <i>[Signature]</i><br>(Signature of person authorized to sign)   |                        |  |           |  |                           |  |         |

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| John R. Carlson (618) 229-2505   |  |   |  | CODE<br><b>HTC711</b>   |                              |

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| 19A. NAME AND TITLE OF SIGNER<br><b>TED F. MALLORY, III,</b><br><b>SENIOR VICE PRESIDENT OF FLIGHT OPERATIONS,</b><br><b>CHIEF SAFETY AND SECURITY OFFICER</b>  |  | 20A. NAME OF CONTRACTING OFFICER<br><b>OLIVIA L. HITSMAN</b><br><b>lucy.hitsman@amc.af.mil</b> (618) 229-2511  |  |
| 19B. NAME OF CONTRACTOR<br>BY (b)(6)<br>(Signature of person authorized to sign)  |  | 20B. UNITED STATES OF AMERICA<br>BY <i>Olivia L. Hitsman</i><br>(Signature of Contracting Officer)   |  |
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| 5. ISSUED BY<br><b>USTRANSCOM/TCAQ-CP</b><br><b>508 Scott Drive</b><br><b>Scott AFB, IL 62225-5357</b>  |                        | CODE<br><b>HTC711</b>  |           | 6. ADMINISTERED BY (If other than Item 5)<br><b>USTRANSCOM/TCAQ-CM</b><br><b>508 Scott Drive</b><br><b>Scott AFB, IL 62225-5357</b>  |                                  | CODE<br><b>HTC711</b>  |         |
| 7. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)<br><b>EVERGREEN INTERNATIONAL AIRLINES, INC.</b><br><b>DBA ALLIANCE CONTRACTOR TEAM</b><br><b>213 LOUDOUN STREET, SW</b><br><b>LEESBURG, VA 20175-2718</b>  |                        |  |           | 8. DELIVERY<br><input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)   |                                  |  |         |
|   |                        |  |           | 9. DISCOUNT FOR PROMPT PAYMENT<br><br><b>NET 15</b>  |                                  |  |         |
| CODE<br><b>3Q2H3</b>  |                        | FACILITY CODE  |           | 10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN  |                                  | ITEM<br><b>WAWF</b>  |         |
| 11. SHIP TO/MARK FOR<br><br>CODE  |                        | 12. PAYMENT WILL BE MADE BY<br><b>DPAS-LIMESTONE/DPAS-BAASD/CC</b><br><b>P.O. BOX 369020</b><br><b>LIMESTONE PAYING OFFICE</b><br><b>COLUMBUS, OH 43236-9020</b> |           | CODE<br><b>F67100</b>  |                                  |  |         |
| 13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:<br><input checked="" type="checkbox"/> 10 U.S.C. 2304(c) ( 3 ) <input type="checkbox"/> 41 U.S.C. 253(c) ( )  |                        |  |           | 14. ACCOUNTING AND APPROPRIATION DATA<br>Will be cited on Delivery Orders  |                                  |  |         |
| 15A. ITEM NO.   | 15B. SUPPLIES/SERVICES | 15C. QUANTITY  | 15D. UNIT | 15E. UNIT PRICE  | 15F. AMOUNT                      |  |         |
|   | SEE SCHEDULE           |  |           |  |                                  |  |         |
|   |                        |  |           |  |                                  | (ESTIMATED)  |         |
| <b>15G. TOTAL AMOUNT OF CONTRACT</b>  |                        |  |           |  |                                  | <b>\$1,320,014,966.44</b>  |         |
| <b>16. TABLE OF CONTENTS</b>  |                        |  |           |  |                                  |  |         |
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| X   | G                      | CONTRACT ADMINISTRATION DATA   | 2         |  | M                                | EVALUATION FACTORS FOR AWARD   |         |
| X   | H                      | SPECIAL CONTRACT REQUIREMENTS  | 24        |  |                                  |  |         |
| <b>CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE</b>  |                        |  |           |  |                                  |  |         |
| 17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 1 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.) |                        |  |           | 18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any condition sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary. |                                  |  |         |
| 19A. NAME AND TITLE OF SIGNER (Type or print)<br><b>Deirdre E. Steinhilber Director, Military Sales</b>   |                        |  |           | 20A. NAME OF CONTRACTING OFFICER<br><b>OLIVIA L. HITSMAN</b><br><b>lucy.hitsman@amc.af.mil</b> (618) 229-2511  |                                  |  |         |
| 19B. NAME OF CONTRACTOR<br><b>BY (b)(6)</b><br>(Signature of person authorized to sign)   |                        |  |           | 19C. DATE SIGNED<br><b>9/29/08</b>   |                                  | 20B. UNITED STATES OF AMERICA<br><b>BY Olivia L. Hitsman</b><br>(Signature of Contracting Officer) |         |
| 20C. DATE SIGNED<br><b>08 SEP 2008</b>  |                        |  |           |  |                                  |  |         |

|   |  |   |  |   |                      |
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| 5. ISSUED BY<br>USTRANSCOM/TCAQ-CP<br>508 Scott Drive<br>Scott AFB, IL 62225-5357 |  | CODE<br>HTC711  | 6. ADMINISTERED BY (If other than Item 5)<br>USTRANSCOM/TCAQ-CM<br>508 Scott Drive<br>Scott AFB, IL 62225-5357 |   | CODE<br>HTC711       |
| John R. Carlson (618) 229-2505  |  |   |  |   |                      |

|  |               |  |  |
|--|---------------|--|--|
| 7. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)<br>EVERGREEN INTERNATIONAL AIRLINES, INC.<br>DBA ALLIANCE CONTRACTOR TEAM<br>213 LOUDOUN STREET, SW<br>LEESBURG, VA 20175-2718 |               | 8. DELIVERY<br><input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below) |  |
|  |               | 9. DISCOUNT FOR PROMPT PAYMENT<br>NET 15   |  |
| 10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN  |               | ITEM<br>WAWF   |  |
| CODE<br>3Q2H3  | FACILITY CODE |  |  |

|                              |  |                |
|------------------------------|--|----------------|
| 11. SHIP TO/MARK FOR<br>CODE | 12. PAYMENT WILL BE MADE BY<br>DPAS-LIMESTONE/DPAS-BAASD/CC<br>P.O. BOX 369020<br>LIMESTONE PAYING OFFICE<br>COLUMBUS, OH 43236-9020 | CODE<br>F67100 |
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| 15A. ITEM NO.                 | 15B. SUPPLIES/SERVICES | 15C. QUANTITY | 15D. UNIT | 15E. UNIT PRICE | 15F. AMOUNT        |
|-------------------------------|------------------------|---------------|-----------|-----------------|--------------------|
|                               | SEE SCHEDULE           |               |           |                 |                    |
|                               |                        |               |           |                 | (ESTIMATED)        |
| 15G. TOTAL AMOUNT OF CONTRACT |                        |               |           |                 | \$1,351,414,857.64 |

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| X                     | C    | DESCRIPTION/SPECS./WORK STATEMENT     | 1       | X  | J    | LIST OF ATTACHMENTS  | 1       |
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| X                     | G    | CONTRACT ADMINISTRATION DATA          | 2       |  | M    | EVALUATION FACTORS FOR AWARD                                     |         |
| X                     | H    | SPECIAL CONTRACT REQUIREMENTS         | 24      |  |      |  |         |

|   |                            |  |                                 |
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| CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE   |                            |  |                                 |
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| 19A. NAME AND TITLE OF SIGNER (Type or print)<br>Jeff Foland - SVP-Worldwide Sales  |                            | 20A. NAME OF CONTRACTING OFFICER<br>OLIVIA L. HITSMAN<br>lucy.hitsman@amc.af.mil (618) 229-2511  |                                 |
| 19B. NAME OF CONTRACTOR<br>(b)(6)   | 19C. DATE SIGNED<br>9/2/08 | 20B. UNITED STATES OF AMERICA<br>BY Olivia L. Hitsman<br>(Signature of Contracting Officer)  | 20C. DATE SIGNED<br>08 SEP 2008 |



|   |                        |  |           |  |                    |  |         |
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| 7. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)<br><b>EVERGREEN INTERNATIONAL AIRLINES, INC.</b><br><b>DBA ALLIANCE CONTRACTOR TEAM</b><br><b>213 LOUDOUN STREET, SW</b><br><b>LEESBURG, VA 20175-2718</b>  |                        |  |           |  |                    |  |         |
| 8. DELIVERY<br><input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)  |                        |  |           |  |                    |  |         |
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|   | SEE SCHEDULE           |  |           |  | (ESTIMATED)        |  |         |
| 15G. TOTAL AMOUNT OF CONTRACT   |                        |  |           |  | \$1,351,414,857.64 |  |         |
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| X   | H                      | SPECIAL CONTRACT REQUIREMENTS  | 24        |  |                    |  |         |
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| 19A. NAME AND TITLE OF SIGNER (Type or print)<br><b>Dee Rush</b><br><b>Manager Contract Training US Airways</b>   |                        |  |           | 20A. NAME OF CONTRACTING OFFICER<br><b>OLIVIA L. HITSMAN</b><br><b>lucy.hitsman@amc.af.mil</b><br><b>(618) 229-2511</b>  |                    |  |         |
| 19B. NAME OF CONTRACTOR<br>BY <b>C</b> (b)(6)<br>(Signature of person authorized to sign)   |                        | 19C. DATE SIGNED<br><b>28 Aug 08</b>   |           | 20B. UNITED STATES OF AMERICA<br>BY <b>Olivia L. Hitsman</b><br>(Signature of Contracting Officer)   |                    | 20C. DATE SIGNED<br><b>08 SEP 2008</b>                           |         |
| AUTHORIZED FOR LOCAL REPRODUCTION<br>Previous edition is usable   |                        |  |           | STANDARD FORM 26 (REV. 12/2002)<br>Prescribed by GSA - FAR (48 CFR) 53.214(a)  |                    |  |         |

|   |                        |   |           |  |                           |  |         |
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| X   | F                      | DELIVERIES OR PERFORMANCE                                 | 2         |  | L                         | INSTRS., CONDS., AND NOTICES TO OFFERORS                         |         |
| X   | G                      | CONTRACT ADMINISTRATION DATA                              | 2         |  | M                         | EVALUATION FACTORS FOR AWARD                                     |         |
| X   | H                      | SPECIAL CONTRACT REQUIREMENTS                             | 24        |  |                           |  |         |
| CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE   |                        |   |           |  |                           |  |         |
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| 19A. NAME AND TITLE OF SIGNER (Type or print)<br><b>Jeffrey P Sanborn CMO - WOA</b>   |                        |   |           | 20A. NAME OF CONTRACTING OFFICER<br><b>OLIVIA L. HITSMAN<br/>lucy.hitsman@amc.af.mil (618) 229-2511</b>  |                           |  |         |
| 19B. NAME OF CONTRACTOR<br><b>BY</b>  |                        | 19C. DATE SIGNED<br><b>8-29-08</b>                        |           | 20B. UNITED STATES OF AMERICA<br><b>BY</b>   |                           | 20C. DATE SIGNED<br><b>08 SEP 2008</b>                           |         |
| (b)(6)  |                        | (Signature or person authorized to sign)                  |           | (Signature of Contracting Officer)   |                           |  |         |

**PART I – THE SCHEDULE****SECTION B – SUPPLIES OR SERVICES AND PRICES/COSTS****1. EXPANSION PEACETIME AIRLIFT SERVICES ENTITLEMENT BY CATEGORY**

|                 | <u>Narrow Body</u> | <u>Wide Body (90 Ton)</u> | <u>Wide Body (&lt; 90 Ton)</u> |
|-----------------|--------------------|---------------------------|--------------------------------|
| CAT B CARGO     | 47.291%            | 47.291%                   | 47.291%                        |
| CAT B COMBI     | 47.291%            | N/A                       |                                |
| CAT B PASSENGER | 47.291%            | 47.291%                   |                                |
|                 | <u>Passenger</u>   | <u>Cargo</u>              |                                |
| SHORT RANGE     | 67.297%            | 76.041%                   |                                |

**2. MINIMUM GUARANTEE**

a. The total minimum guarantee to be awarded under this contract will be those fixed award dollars negotiated and awarded under CLINS 0066 – 0097 for Category B Airlift Services. When circumstances so dictate, the minimum may be satisfied by a combination of fixed and expansion award dollars (CLINS 0036 – 0065).

b. For those contracts awarded for expansion only, the minimum guarantee will be to attend the Mobilization Representative (MOBREP) Conference. This minimum will be satisfied as a reimbursable under CLIN 0001AB.

**3. PRICING**

a. CLIN 0001AA shall be priced as follows:

(1) CLIN 0001AA. Reimbursables. The following additional charges are not included in the Uniform Rate which may be recognized under the terms of this contract: Transportation Tax; Head Tax; Custom Charges as outlined in 19 USC 58c; Immigration Charges as outlined in 8 USC 1356(d); Animal and Plant Health Inspection Service Fee as outlined in 7 CFR Part 354 (passenger fee only); Excess Baggage; Federal Inspection Station Fee, Eurocontrol, Demurrage or other reimbursables not specifically noted. Demurrage will be paid on completed cargo missions when departure is delayed over 3 hours beyond scheduled block time and the delay is Government controlled (See Section F, paragraph 4). Payment of delays of fractions of an hour will be calculated using normal rounding procedures, i.e., 29 minutes or less will be dropped, 30 minutes or more will be rounded to the next whole hour. Charges are as follows:

| <u>Large</u>               | <u>Per Hour</u> | <u>Medium</u>      | <u>Per Hour</u> | <u>Small</u>  | <u>Per Hour</u> |
|----------------------------|-----------------|--------------------|-----------------|---------------|-----------------|
| (a) B747 100/200/400/400ER | -- \$ 1694      | (a) A-300-600ER    | -- \$ 2419      | (a) B-727-100 | -- \$ 905       |
| (b) MD-11F                 | -- \$ 1618      | (b) A-300-400(F)   | -- \$ 2371      | (b) B-727-200 | -- \$1742       |
| (c) MD-11C                 | -- \$ 1543      | (c) B767-200F      | -- \$ 2276      | (c) L-100     | -- \$1404       |
| (d) DC-10-30/40            | -- \$ 1411      | (d) DC-8-63/71-73F | -- \$ 2134      |               |                 |
| (e) DC10-10F               | -- \$ 997       | (e) DC-8-61/62     | -- \$ 1859      |               |                 |
| (f) L-1011-50/10           | -- \$ 1129      | (f) DC-8-50        | -- \$ 1731      |               |                 |

(2) Fuel Adjustments. The prices are subject to adjustment for variances in fuel prices as set forth in the USTRANSCOM Final Fiscal Year 2009 Uniform Negotiated Rates and Rules, hereafter referred to as "Rates and Rules", and Attachment 1, Appendix 3, paragraph 16 of Section C, Performance Work Statement (PWS).

(3) Other costs not specifically noted above may be allowed as reimbursable, if determined appropriate and authorized by the Contracting Officer prior to the contractor incurring the cost.

b. CLIN 0001AB. MOBREP Conference. The government will reimburse the contractor for food, travel, and lodging expenses incurred as a result of carrier representatives attending the MOBREP Conference. Reimbursement for food, lodging and travel will be consistent with the Joint Travel Regulation (JTR). Other costs may be allowed as reimbursable, if determined appropriate and authorized in advance by the Contracting Officer prior to the contractor incurring the costs.

c. CLIN 0002. Contingency Alert. CLIN 0002 is priced as a NOT-TO-EXCEED amount which the Contractor shall not exceed without the Contracting Officer's prior concurrence. The intent of this provision is to fairly compensate for services performed which will not be compensated through the award of a mission. The Contractor shall submit complete documentation to support all costs identified on their invoice for services performed. The Contracting Officer will evaluate the Contractor's submission for reasonableness, allowability, and allocability consistent with the Federal Acquisition Regulation (FAR) and negotiate with the Contractor as needed. Potential loss of revenue from commercial business is not an allowable cost. (See Section 4, para 4.25 of Section C, PWS.)

d. CLINs 0003-0035. CRAF Activation, shall be priced as follows:

(1) Prices for airlift services during Civil Reserve Air Fleet (CRAF) activation, Stage I, II and III and during United States Transportation Command (USTRANSCOM) Commander-determined periods (where volunteered airlift is used in lieu of CRAF activated airlift) shall be determined in the same manner as for the fixed award CLINs, except that one-way cargo and passenger missions will be priced as a percentage of the round trip rate (identified as CRAF Contingency rate), in the Rates and Rules. The price for Aeromedical evacuation airlift shall be determined IAW the Rates and Rules and Appendix 5, paragraph 6.0 of Section C, PWS.

(2) For long-range international aircraft called up (See Section C, PWS, Appendix 5, para 2.5) under CRAF activation Stages I, II or III, there will be a guaranteed average daily utilization of 8 hours flight time. If an aircraft fails to achieve the guaranteed utilization, the Contractor will be entitled to additional compensation due to under utilization.

(a) The contractor shall provide documentation supporting its request for compensation due to under utilization. Contractor may report to AMC at the end of each month, at the end of the contract period or upon CRAF deactivation, total hours flown for each called up aircraft, (or substituted aircraft), the number of Contractor controllable delays, hours flown in commercial service, and hours flown in AMC service. Compensation for under utilization will be accomplished at the end of the contract period or upon CRAF deactivation, whichever comes first. Contractors must provide cost data to determine the rate 30 days after contract period or CRAF deactivation.

(b) The equation for computing compensation for under utilization is:

(Guaranteed Hours - actual hours) X 500 mph X Aircraft Cabin Load (ACL) X roundtrip rate (See 3. below)  
= compensation

1. Flight time (actual hours) shall include all revenue hours including paid ferry and any commercial flights operated during the CRAF activation.

2. Actual hours will be increased by 8 hours for each time an aircraft is unavailable to the Government for Contractor controllable reasons. (i.e.: maintenance or lack of sufficient crew).

3. The rate will be based on the round trip rate in the USTRANSCOM Negotiated Uniform Rate minus any costs not expected to be incurred (i.e., fuel, meals, maintenance).

4. The underutilized hours will be converted to miles using an average speed of 500 mph.

EXAMPLE:

(i) Tail number N123 with an ACL of 326 PAX is activated on the 5th of the month.

(ii) The aircraft operated for 100 flight hours for the remainder of the month including 10 commercial hours.

(iii) Guaranteed utilization = 240 hours (30 days x 8 hours)

(iv) Actual utilization = 100 hours

(v) Underutilized hours = 140 hours

(vi)  $140 \text{ hours} \times 500 \text{ mph} = 70,000 \text{ miles} \times 326 \text{ ACL} = 22,820,000 \text{ seat miles} \times .045 \text{ (actual rate to be determined)} = \$1,026,900 \text{ compensation earned for the month.}$

(c) Additionally, should the long-range international aircraft called up, as defined in Appendix 5, para 2.5, not be required for the 30-day minimum guaranteed utilization period or not be required for all or a portion of the 15 days between notification and official release from call up, the Contractor will be compensated for under utilization at an amount not to exceed that calculated as provided in paragraph (2)(b) above. Contractors are obligated to make their best efforts to obtain commercial business to minimize Government costs.

(3) Prices paid for airlift called up under all CRAF activation Stages may be adjusted by negotiation between the Contractor and the Government pursuant to the procedures in the CHANGES clause. The Memorandum of Understanding (MOU) between the Contractor and USTRANSCOM shall serve as the guideline for establishing prices and adjustments thereto. In establishing such prices, it shall be presumed, unless the Contractor presents evidence establishing that an adjustment to the rate of compensation is appropriate, that prices computed in accordance with the Rates and Rules applied to the mileage set forth in Commercial Operations Integrated System (COINS) for the shortest route over which the type of aircraft involved operated, constitutes equitable prices for such services. For the purpose of circumnavigating countries which will not grant overflight clearances, peacetime and wartime missions which operate the segments listed in paragraph 2e(2) below, will be paid according to the special miles listed therein instead of the mileage calculated by COINS. Consideration will be given, but not limited to, evidence so presented by the Contractor for aircraft called up which reflect reasonable incurred cost outside the peacetime rate associated with call-up aircraft under CRAF activation. Examples of such costs are:

(a) Additional per diem expenses incurred to relocate personnel required to assist in the flow of CRAF activated aircraft.

(b) Additional security expenses for the safety of aircraft and crew.

(4) Vectoring. Vectoring is a change from the contracted route due to specific military conditions in the mission operating environment which requires a deviation from the contracted route. If conditions require vectoring during CRAF activation or periods where volunteered airlift are used in lieu of CRAF activated airlift, the Contracting Officer will issue a change order in accordance with the CHANGES clause. The change order will provide the area, times, etc., for which vectoring will be recognized as a changed condition. A change order authorizes submission of requests for price adjustments. To expedite adjustments, periodic submissions are encouraged. The Contractor should document and support the baseline from which adjustment is requested in addition to substantiation of the amount of the equitable adjustment in any request submitted to the Contracting Officer.

e. CLINs for the fixed and expansion requirements shall be priced as follows:

(1) Airlift services shall be paid at the price established for each SUBCLIN. Such price shall be determined in accordance with the Rates and Rules incorporated by reference for International Long- and Short-Range Commercial Augmentation (see Section B, paragraphs 3e(2), 3e(3), and 3e(4) for exceptions). USTRANSCOM will continue to conduct an annual rate review in accordance with the MOU between the Contractors and USTRANSCOM. Mileages will be determined in accordance with the COINS. If the contractor is unable to fly the shortest route between two locations, they must submit flight plans for approval of any additional miles prior to award. The additional mileage will be mutually agreed to by the Contractor and Contracting Officer. The Contracting Officer may also pre-approve extraordinary insurance costs applicable to a pending mission when in the best interest of the Government.

(2) Special Miles:

**SOLICITATION NO: HTC711-08-R-0003**  
**CONTRACT NO: HTC711-08-D-5000**

In performance of certain airlift missions, Contractors will be required to circumnavigate countries which will not grant over-flight clearances, either during peacetime or wartime. In those instances, special miles will be paid.

For the routings listed below, the special miles as indicated following each route will be paid to circumnavigate Cuba or Nicaragua. Additional routings requiring payment of special miles may be added to this contract as needed.

|                      |      |           |      |           |      |
|----------------------|------|-----------|------|-----------|------|
| KCHS-MHSC            | 1483 | MPTO-MHSC | 795  | KCHS-SKBO | 2059 |
| KCHS-MHTG            | 1486 | MPTO-MHTG | 806  | KCHS-MKJS | 1405 |
| KCHS-MPTO (via MMCZ) | 1888 | MPTO-MSSS | 739  |           |      |
| KCHS-MSSS            | 1487 | KNGU-MKJP | 1580 |           |      |
| KCHS-MKJP            | 1321 | EDDN-LYPR | 250  |           |      |

On missions into and out of Guantanamo Bay, Cuba (MUGM), 198 miles will be added for circumnavigation of Cuba.

(3) When requirements exceed the Maximum Standard Payloads as set forth in Appendix A of the Rates and Rules, the Government will pay the incremental passenger movement rate identified in Appendix A of the Rates and Rules. The Contracting Officer may elect to pay the appropriate rate from the Rates and Rules. Ferry on SAAMs or Exercises will not be paid for any additional seats purchased at the incremental passenger movement rate.

(4) When the Government requires airlift services for Outsized Cargo (reference PWS, Section 1, paragraph 1.3.16. and 1.3.17.) or service in areas where the operations of US-certificated carriers are restricted, the rates in the Rates and Rules will not apply (See Section H, paragraph 20). Unless specifically authorized by the Contracting Officer and identified in the applicable modification, miles flown in performance of these types of missions are not subject to fuel adjustment procedures. Outsized cargo requirements are competed and award is made to the lowest price offered which meets mission requirements. If only one offer is received, determination is made of price fair and reasonableness. Additional costs, identified prior to award, may be reimbursed upon receipt and approval of Contractor invoices. Requirements for service into areas where the operations of US-certificated air carriers are restricted are competed on an as-needed basis and award is made to the lowest price offered which meets mission requirements. If only one offer is received, determination is made of price fair and reasonableness. Additional costs, identified prior to award, may be reimbursed upon receipt and approval of Contractor invoices.

f. CLIN 0098. Aeromedical Evacuation Testing and Training. The government will negotiate price and services prior to performance in accordance with the Section C, PWS, Section 1, paragraph 1.5.1.

g. The Government shall also have the right, at its sole option, to order other airlift service under the contract in accordance with and at the rate specified by the Contractor for service to the public which will, in the judgment of the Contracting Officer, meet the Government needs. In addition, the Government may, for airlift service not covered by the Rates and Rules, establish rates by negotiation.

h. Passenger Processing Services at Seattle-Tacoma International Airport in accordance with Section C, PWS, Section 1, paragraph 1.1.2.3.2. Reimbursement shall be in accordance with the Rates and Rules.

# CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

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B-5

NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES   | QUANTITY                   | UNIT | UNIT PRICE | AMOUNT                          |
|----------|---|----------------------------|------|------------|---------------------------------|
| 0001     | REIMBURSABLES<br><br>The following SUBCLIN identifies additional charges not included in the Uniform Rate which may be recognized and reimbursed at cost if incurred in the performance of this contract.   |                            |      |            |                                 |
| 0001AA   | REIMBURSABLES<br>Purchase Request - F3SF9980150100<br>Applicable US Taxes, Customs, Immigration, Federal Inspection Station Fees, Animal and Plant Health Inspection Service Fee as outlined in 7 CFR Part 354 (passenger fee only), Excess Baggage; Demurrage; and Eurocontrol (See para a(1) of the clause entitled PRICING). Extraordinary Insurance Costs (must be pre-approved by Contracting Officer, see para e(1) of the clause entitled PRICING). Fuel Adjustment (para a(2) of the clause entitled PRICING). Other costs not listed above as reimbursables which the Contracting Officer may determine appropriate and authorize on a case-by-case basis prior to Contractor incurring the costs. (For example, Government-directed Contractor care of passengers to include billeting and transportation during noncontrollable delays). | Estimated<br>45,915,000    | DO   | \$1.00     | Estimated<br>\$45,915,000.00    |
| 0001AB   | MOBREP<br>Purchase Request - F3SF9980150100<br><br>Attendance of two Contractor representatives at annual Mobilization Representative (MOBREP) conference. (See para b of the clause entitled PRICING.)   | Estimated<br>16,530        | DO   | \$1.00     | Estimated<br>\$16,530.00        |
| 0002     | CONTINGENCY ALERT<br><br>The Government may implement Contingency Alert when necessary to perform airlift for a potential contingency. Defined in PWS, para 4.25.   | Not To Exceed              |      |            | Not To Exceed                   |
| 0003     | CRAF ACTIVATION (CLINs 0003-0035)<br><br>The Government may unilaterally increase the airlift and related support services to be performed hereunder up to and including the full capacity of all aircraft listed in PWS, Appendix 3A, as described in PWS, Appendix 5.   | TBD                        |      |            | TBD                             |
| 0036     | PEACETIME AIRLIFT SERVICE--EXPANSION (CLINs 0036-0065)<br><br>The Government may from time to time during the period of performance of this contract, subject to the Contractor's acceptance, order expansion airlift services as described in the clauses ALLOCATION AND ORDERING OF EXPANSION AIRLIFT and AWARDED EXPANSION AIRLIFT FOR OUTSIZED CARGO SERVICE OR SERVICE INTO RESTRICTED AREAS OR REMOTE LOCATIONS. These services shall be paid in accordance with the clause entitled PRICING.   | Estimated<br>1,100,000,000 | DO   | \$1.00     | Estimated<br>\$1,100,000,000.00 |

NSN 7540-01-152-8067

# TBD in Quantity column denotes : To Be Determined at time of notification

OPTIONAL FORM 336 (4-86)  
Sponsored by GSA FAR (48 CFR) 53.110

## CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

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NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES   | QUANTITY | UNIT | UNIT PRICE   | AMOUNT          |
|----------|---|----------|------|--------------|-----------------|
| 0066     | Cat B Cargo ( Pacific)  |          |      |              |                 |
| 0066AA   | <p>CARRIER: EVERGREEN INTERNATIONAL AIRLINES, INC.<br/>AIRCRAFT: B747 ACL TYPE: CARGO</p> <p>ROUTE:<br/>KSUU -PHIK -PGUA -RODN -RJTY *PANC -KSUU</p> <p>SCHEDULE: (49 Trips)<br/>Oct 2008: 05 12 19 26<br/>Nov 2008: 02 09 16 23 30<br/>Dec 2008: 07 28<br/>Jan 2009: 04 11 18 25<br/>Feb 2009: 01 08 15 22<br/>Mar 2009: 01 08 15 22 29<br/>Apr 2009: 05 12 19 26<br/>May 2009: 03 10 17 24 31<br/>Jun 2009: 07 14 21 28<br/>Jul 2009: 05 12 19 26<br/>Aug 2009: 02 09 16 23 30<br/>Sep 2009: 06 13 20</p> <p>MSN NO:<br/>TBCKU790A, TBCKU800A + Julian Day</p> <p>TRIP COST: \$745,096.80<br/>LIVE: (MILES) 14044 * (RATE) 0.58 = (UNITCOST) \$8,145.52 *<br/>(ACL) 90.0 = (LIVE COST) \$733,096.80<br/>* 49 TRIPS = \$35,921,743.20</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 6 = \$12,000.00<br/>* 49 TRIPS = \$588,000.00</p> <p>NOTES:<br/>NON CONTOURED AIRCRAFT REQUIRED, 90 TONS, 42 PALLETS.<br/>MUST BE ABLE TO ACCOMMODATE MULTI-PALLET TRAINS.</p> | 49       | TR   | \$745,096.80 | \$36,509,743.20 |



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REFERENCE NO. OF DOCUMENT BEING CONTINUED

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NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES  | QUANTITY | UNIT | UNIT PRICE   | AMOUNT          |
|----------|--|----------|------|--------------|-----------------|
| 0067     | Cat B Cargo ( Pacific)   |          |      |              |                 |
| 0067AA   | <p>CARRIER: EVERGREEN INTERNATIONAL AIRLINES, INC.<br/>AIRCRAFT: B747 ACL TYPE: CARGO</p> <p>ROUTE:<br/>KSUU *PANC *RJTY -RKSO -RJTY *PANC -KSUU</p> <p>SCHEDULE: (48 Trips)<br/>Oct 2008: 01 08 15 22 29<br/>Nov 2008: 05 12 19<br/>Dec 2008: 03 10<br/>Jan 2009: 07 14 21 28<br/>Feb 2009: 04 11 18 25<br/>Mar 2009: 04 11 18 25<br/>Apr 2009: 01 08 15 22 29<br/>May 2009: 06 13 20 27<br/>Jun 2009: 03 10 17 24<br/>Jul 2009: 01 08 15 22 29<br/>Aug 2009: 05 12 19 26<br/>Sep 2009: 02 09 16 23</p> <p>MSN NO:<br/>TBCKU810D, TBCKU820D + Julian Day</p> <p>TRIP COST: \$654,164.40<br/>LIVE: (MILES) 12302 * (RATE) 0.58 = (UNITCOST) \$7,135.16 *<br/>(ACL) 90.0 = (LIVE COST) \$642,164.40<br/>* 48 TRIPS = \$30,823,891.20</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 6 = \$12,000.00<br/>* 48 TRIPS = \$576,000.00</p> <p>NOTES:<br/>NON CONTOURED AIRCRAFT REQUIRED, 90 TONS, 42 PALLETS.<br/>MUST BE ABLE TO ACCOMMODATE MULTI-PALLET TRAINS.</p> | 48       | TR   | \$654,164.40 | \$31,399,891.20 |

## CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

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B-8

NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES   | QUANTITY | UNIT | UNIT PRICE  | AMOUNT         |
|----------|---|----------|------|-------------|----------------|
| 0070     | Cat B Cargo (Atlantic)  |          |      |             |                |
| 0070AA   | <p>CARRIER: ASTAR AIR CARGO, INC.<br/>AIRCRAFT: DC8 ACL TYPE: CARGO</p> <p>ROUTE:<br/>KNGU -MUGM -KNGU</p> <p>SPECIAL MILES:<br/>KNGU - MUGM = 1373<br/>MUGM - KNGU = 1373</p> <p>SCHEDULE: (25 Trips)<br/>Apr 2009: 14 21 28<br/>May 2009: 05 12 19 26<br/>Jun 2009: 02 09 16 23 30<br/>Jul 2009: 07 14 21 28<br/>Aug 2009: 04 11 18 25<br/>Sep 2009: 01 08 15 22 29</p> <p>MSN NO:<br/>BBRCMD3SC, BBRCMD40C + Julian Day</p> <p>TRIP COST: \$97,338.55<br/>LIVE: (MILES) 2746 * (RATE) 0.75535 = (UNITCOST) \$2,074.19<br/>* (ACL) 45.0 = (LIVE COST) \$93,338.55<br/>* 25 TRIPS = \$2,333,463.75</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 2 = \$4,000.00<br/>* 25 TRIPS = \$100,000.00</p> <p>NOTES:<br/>MISSIONS MUST ARRIVE MUGM NO LATER THAN 1600Z DUE TO RATIONS<br/>REQUIREMENTS.</p> <p>ACL 45 TONS/18 PALLETS.<br/>RATIONS RUN.</p> | 25       | TR   | \$97,338.55 | \$2,433,463.75 |

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REFERENCE NO. OF DOCUMENT BEING CONTINUED

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NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES   | QUANTITY | UNIT | UNIT PRICE  | AMOUNT         |
|----------|---|----------|------|-------------|----------------|
| 0071     | Cat B Cargo (Atlantic)  |          |      |             |                |
| 0071AA   | <p>CARRIER: ASTAR AIR CARGO, INC.<br/>AIRCRAFT: DC8 ACL TYPE: CARGO</p> <p>ROUTE:<br/>KNGU -MUGM -KNGU</p> <p>SPECIAL MILES:<br/>KNGU - MUGM = 1373<br/>MUGM - KNGU = 1373</p> <p>SCHEDULE: (24 Trips)<br/>Apr 2009: 18 25<br/>May 2009: 02 09 16 23 30<br/>Jun 2009: 06 13 20 27<br/>Jul 2009: 04 11 18 25<br/>Aug 2009: 01 08 15 22 29<br/>Sep 2009: 05 12 19 26</p> <p>MSN NO:<br/>BBRCMD3SG, BBRCMD40G + Julian Day</p> <p>TRIP COST: \$97,338.55<br/>LIVE: (MILES) 2746 * (RATE) 0.75535 = (UNITCOST) \$2,074.19<br/>* (ACL) 45.0 = (LIVE COST) \$93,338.55<br/>* 24 TRIPS = \$2,240,125.20</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 2 = \$4,000.00<br/>* 24 TRIPS = \$96,000.00</p> <p>NOTES:<br/>MISSIONS MUST ARRIVE MUGM NO LATER THAN 1600Z DUE TO RATIONS<br/>REQUIREMENTS.</p> <p>ACL 45 TONS/18 PALLETS.<br/>RATIONS RUN.</p> | 24       | TR   | \$97,338.55 | \$2,336,125.20 |

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REFERENCE NO. OF DOCUMENT BEING CONTINUED

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NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES  | QUANTITY | UNIT | UNIT PRICE   | AMOUNT          |
|----------|--|----------|------|--------------|-----------------|
| 0090     | Cat B Passenger (Atlantic)   |          |      |              |                 |
| 0090AA   | <p>CARRIER: WORLD AIRWAYS INC<br/>AIRCRAFT: DC10-30 ACL TYPE: PASSENGER</p> <p>ROUTE:<br/>KBWI *EINN -ETAR -LIPA -OTBH -LIPA -ETAR *EINN -KBWI</p> <p>SCHEDULE: (52 Trips)<br/>Oct 2008: 01 07 15 21 30<br/>Nov 2008: 04 13 19 24<br/>Dec 2008: 03 10 16 22 30<br/>Jan 2009: 06 14 23 27<br/>Feb 2009: 02 10 19 25<br/>Mar 2009: 05 10 18 27<br/>Apr 2009: 02 08 17 22 28<br/>May 2009: 04 12 21 27<br/>Jun 2009: 02 08 17 23 29<br/>Jul 2009: 08 14 20 28<br/>Aug 2009: 06 12 21 27<br/>Sep 2009: 02 10 15 23</p> <p>MSN NO:<br/>BKWWLY500, BKWWLY600 + Julian Day</p> <p>TRIP COST: \$638,156.80<br/>LIVE: (MILES) 13846 * (RATE) 0.14627 = (UNITCOST) \$2,025.25<br/>* (ACL) 300.0 = (LIVE COST) \$607,575.00<br/>* 52 TRIPS = \$31,593,900.00</p> <p>EUROCONTROL: (LIVE COST) \$607,575.00 * (RATE) 0.024 =<br/>(EUROCOST) \$14,581.80<br/>* 52 TRIPS = \$758,253.60</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 8 = \$16,000.00<br/>* 52 TRIPS = \$832,000.00</p> <p>NOTES:<br/>VARIED SCHEDULE-DEPARTURE TIMES AND DAYS WILL VARY DUE TO<br/>FORCE PROTECTION.</p> <p>THIS CLIN CANNOT BE PERFORMED USING THE SAME TAIL NUMBER THAT<br/>IS BEING OFFERED TO PERFORM CLIN 0091AA</p> <p>34" SEAT PITCH OR GREATER REQUIRED FOR ALL SEATS EXCEPT WHEN<br/>AIRCRAFT IS IN SCHEDULED MAINTENANCE AND AN ACO APPROVED<br/>SUBSTITUTE AIRCRAFT IS NEEDED TO OPERATE A MISSION. LOCATION<br/>OF CREW REST SEATS IN A/C MUST HAVE ACO APPROVAL PRIOR TO<br/>USE.</p> <p>MIN GACL 86,400 lbs<br/>BOOKABLE ACL 280 seats</p> | 52       | TR   | \$638,156.80 | \$33,184,153.60 |

## CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

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NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES  | QUANTITY | UNIT | UNIT PRICE   | AMOUNT          |
|----------|--|----------|------|--------------|-----------------|
| 0091     | Cat B Passenger (Atlantic)   |          |      |              |                 |
| 0091AA   | <p>CARRIER: WORLD AIRWAYS INC<br/>AIRCRAFT: DC10-30 ACL TYPE: PASSENGER</p> <p>ROUTE:<br/>KEWI *EINN -ETAR -LTAG -UAFM -LTAG -ETAR *EINN -KBWI</p> <p>SCHEDULE: (53 Trips)<br/>Oct 2008: 03 09 17 22 27<br/>Nov 2008: 05 11 19 23<br/>Dec 2008: 02 11 19 27<br/>Jan 2009: 03 07 15 20 26<br/>Feb 2009: 03 11 20 26<br/>Mar 2009: 04 12 16 24<br/>Apr 2009: 01 07 13 21 30<br/>May 2009: 06 14 18 29<br/>Jun 2009: 04 10 15 22 30<br/>Jul 2009: 07 16 22 28<br/>Aug 2009: 05 11 20 26<br/>Sep 2009: 01 07 16 22 28</p> <p>MSN NO:<br/>BKRWL3500, BKRWL3600 + Julian Day</p> <p>TRIP COST: \$711,669.76<br/>LIVE: (MILES) 15482 * (RATE) 0.14627 = (UNITCOST) \$2,264.55<br/>* (ACL) 300.0 = (LIVE COST) \$679,365.00<br/>* 53 TRIPS = \$36,006,345.00</p> <p>EUROCONTROL: (LIVE COST) \$679,365.00 * (RATE) 0.024 =<br/>(EUROCOST) \$16,304.76<br/>* 53 TRIPS = \$864,152.28</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 8 = \$16,000.00<br/>* 53 TRIPS = \$848,000.00</p> <p>NOTES:<br/>VARIED SCHEDULE-DEPARTURE TIMES AND DAYS WILL VARY DUE TO<br/>FORCE PROTECTION.</p> <p>UAFM ARRIVALS WILL BE SCHEDULED AFTER 2100Z.</p> <p>THIS CLIN CANNOT BE PERFORMED USING THE SAME TAIL NUMBER THAT<br/>IS BEING OFFERED TO PERFORM CLIN 0090AA</p> <p>MIN GACL 86,400 lbs<br/>BOOKABLE ACL 280 seats</p> | 53       | TR   | \$711,669.76 | \$37,718,497.28 |

## CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

HTC711-08-D-5000

PAGES

B-12

NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES   | QUANTITY | UNIT | UNIT PRICE   | AMOUNT          |
|----------|---|----------|------|--------------|-----------------|
| 0093     | Cat B Passenger (Atlantic)  |          |      |              |                 |
| 0093AA   | <p>CARRIER: NORTH AMERICAN AIRLINES<br/>AIRCRAFT: B767-300 ACL TYPE: PASSENGER</p> <p>ROUTE:<br/>KBWI *BINN -ETAR -OKBK -ETAR *BINN -KBWI</p> <p>SCHEDULE: (33 Trips)<br/>Oct 2008: 02 08 14 20 28<br/>Nov 2008: 03 12 18 24<br/>Dec 2008: 01 09 17 21 29<br/>Jan 2009: 05 13 21 29<br/>Feb 2009: 04 12 17 23<br/>Mar 2009: 02 11 17 26<br/>Apr 2009: 03 09 15 23 29<br/>May 2009: 05 11</p> <p>MSN NO:<br/>BKWRLG500, BKWRLG600 + Julian Day</p> <p>TRIP COST: \$579,221.45<br/>LIVE: (MILES) 13090 * (RATE) 0.17632 = (UNITCOST) \$2,308.03<br/>* (ACL) 240.0 = (LIVE COST) \$553,927.20<br/>* 33 TRIPS = \$18,279,597.60</p> <p>EUROCONTROL: (LIVE COST) \$553,927.20 * (RATE) 0.024 =<br/>(EUROCONTROL) \$13,294.25<br/>* 33 TRIPS = \$438,710.25</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 6 = \$12,000.00<br/>* 33 TRIPS = \$396,000.00</p> <p>NOTES:<br/>VARIED SCHEDULE-DEPARTURE TIMES AND DAYS WILL VARY DUE TO<br/>FORCE PROTECTION.<br/>NON-STOP SERVICE PREFERRED.</p> <p>MIN GACL 78,000 lbs<br/>BOOKABLE ACL 240 seats</p> | 33       | TR   | \$579,221.45 | \$19,114,307.85 |

## CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

HTC711-08-D-5000

PAGES

B-13

NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES  | QUANTITY | UNIT | UNIT PRICE   | AMOUNT          |
|----------|--|----------|------|--------------|-----------------|
| 0094     | Cat B Passenger (Atlantic)   |          |      |              |                 |
| 0094AA   | <p>CARRIER: NORTH AMERICAN AIRLINES<br/>AIRCRAFT: B767-300 ACL TYPE: PASSENGER</p> <p>ROUTE:<br/>KNGU -LPLA -LIRN -LGSA -OBBI -FJDG -OBBI -LGSA -LIRN -LPLA<br/>-KNGU</p> <p>SCHEDULE: (26 Trips)<br/>Oct 2008: 08 22<br/>Nov 2008: 05 19<br/>Dec 2008: 03 17 29<br/>Jan 2009: 14 28<br/>Feb 2009: 11 25<br/>Mar 2009: 11 25<br/>Apr 2009: 08 22<br/>May 2009: 06 20<br/>Jun 2009: 03 17<br/>Jul 2009: 01 15 29<br/>Aug 2009: 12 26<br/>Sep 2009: 09 23</p> <p>MSN NO:<br/>BKWRLP50D, BKWRLP60D + Julian Day</p> <p>TRIP COST: \$879,887.21<br/>LIVE: (MILES) 19844 * (RATE) 0.17632 = (UNITCOST) \$3,498.89<br/>* (ACL) 240.0 = (LIVE COST) \$839,733.60<br/>* 26 TRIPS = \$21,833,073.60</p> <p>EUROCONTROL: (LIVE COST) \$839,733.60 * (RATE) 0.024 =<br/>(EUROCOST) \$20,153.61<br/>* 26 TRIPS = \$523,993.86</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 10 = \$20,000.00<br/>* 26 TRIPS = \$520,000.00</p> <p>NOTES:<br/>WEDNESDAY DEPARTURE EVERY OTHER WEEK, EXCEPT 31 DEC TO AVOID<br/>NEW YEARS.<br/>VARIED DEPARTURE TIMES DUE TO FORCE PROTECTION.</p> <p>MIN GACL 78,000 lbs<br/>BOOKABLE ACL 240 seats</p> | 26       | TR   | \$879,887.21 | \$22,877,067.46 |

## CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

HTC711-08-D-5000

PAGES

B-14

NAME OF OFFEROR OR CONTRACTOR

EVERGREEN INTERNATIONAL AIRLINES, INC.

Cage Code: 3Q2H3

| ITEM NO. | SUPPLIES/SERVICES   | QUANTITY | UNIT | UNIT PRICE   | AMOUNT          |
|----------|---|----------|------|--------------|-----------------|
| 0095     | Cat B Passenger (Atlantic)  |          |      |              |                 |
| 0095AA   | <p>CARRIER: NORTH AMERICAN AIRLINES<br/>AIRCRAFT: B767-300 ACL TYPE: PASSENGER</p> <p>ROUTE:<br/>KNGU -LPLA -LICZ -LGSA -OBBI -HDAM -OBBI -LGSA -LICZ -LPLA<br/>-KNGU</p> <p>SCHEDULE: (27 Trips)<br/>Jun 2009: 24<br/>Oct 2008: 01 15 29<br/>Nov 2008: 12 24<br/>Dec 2008: 10 22<br/>Jan 2009: 07 21<br/>Feb 2009: 04 18<br/>Mar 2009: 04 18<br/>Apr 2009: 01 15 29<br/>May 2009: 13 27<br/>Jun 2009: 10<br/>Jul 2009: 08 22<br/>Aug 2009: 05 19<br/>Sep 2009: 02 16 30</p> <p>MSN NO:<br/>BKRRQLQ70D, BKRRQLQ80D + Julian Day</p> <p>TRIP COST: \$737,410.30<br/>LIVE: (MILES) 16556 * (RATE) 0.17632 = (UNITCOST) \$2,919.15<br/>* (ACL) 240.0 = (LIVE COST) \$700,596.00<br/>* 27 TRIPS = \$18,916,092.00</p> <p>EUROCONTROL: (LIVE COST) \$700,596.00 * (RATE) 0.024 =<br/>(EUROCONTROL) \$16,814.30<br/>* 27 TRIPS = \$453,986.10</p> <p>STOP CHARGES: (STOP CHARGE RATE) \$2,000.00 * (DIRECTED<br/>STOPS) 10 = \$20,000.00<br/>* 27 TRIPS = \$540,000.00</p> <p>NOTES:<br/>WEDNESDAY DEPARTURE EVERY OTHER WEEK, EXCEPT 26 NOV, 24 DEC<br/>TO AVOID HOLIDAYS.<br/>VARIED DEPARTURE TIMES DUE TO FORCE PROTECTION.</p> <p>MIN GACL 78,000 lbs<br/>BOOKABLE ACL 240 seats</p> | 27       | TR   | \$737,410.30 | \$19,910,078.10 |



**SOLICITATION NO: HTC711-08-R-0003**  
**CONTRACT NO: HTC711-08-D-5000**

**PART I – THE SCHEDULE**

**SECTION C - DESCRIPTION/SPECS/WORK STATEMENT**

The Contractor shall perform International Airlift Services and CRAF Activation services (when necessary) in accordance with the attached PWS dated 27 August 2008.

**PART I - THE SCHEDULE**

**SECTION E - INSPECTION AND ACCEPTANCE**

**1. The following clauses are incorporated by reference:**

| <b>FAR<br/>NUMBER</b> | <b>CLAUSE TITLE</b>                        | <b>DATE</b>     |
|-----------------------|--|-----------------|
| <b>52.246-4</b>       | <b>INSPECTION OF SERVICES--FIXED PRICE</b> | <b>AUG 1996</b> |

  

| <b>DEFENSE<br/>FAR SUP</b> | <b>CLAUSE TITLE</b>                             | <b>DATE</b>     |
|----------------------------|---|-----------------|
| <b>252.246-7000</b>        | <b>MATERIAL INSPECTION AND RECEIVING REPORT</b> | <b>MAR 2008</b> |

**2. INSPECTION AND ACCEPTANCE OF SERVICES**

a. An authorized Government representative will accomplish government inspection and acceptance of services under this contract at the aerial port of debarkation (APOD). The AMC Form 8 shall be completed for each passenger mission performed under this contract and used to verify services rendered for acceptance. The Global Decision Support System (GDSS) will be used to verify services rendered for all missions.

b. HQ AMC reserves the right to inspect, conduct onsite capability surveys, perform ramp inspections, conduct flight-deck observation flights, and initiate performance evaluations of the Contractor during all phases of this contract. Contractor shall facilitate ramp inspections in accordance with Attachment 11, AMC Supplement 1 to AFI 21-101, Aerospace Maintenance Management.

## **PART I - THE SCHEDULE**

### **SECTION F - DELIVERIES OR PERFORMANCE**

#### **1. PERIOD OF PERFORMANCE**

a. Performance of this contract shall begin 01 October 2008, or the date of award, whichever occurs later. It shall continue through 30 September 2009 unless sooner terminated or extended by the Government under the provisions of this contract. All flights in progress at midnight of the last day of the contract shall not be affected by the expiration of this contract.

b. During performance of this contract, there may be a declaration of an airlift emergency or national emergency, or the CRAF may be activated, as described in Appendix 5. In such event, the Government may give notice to the Contractor to extend this contract for the purposes of ordering additional airlift services throughout the period of the emergency. In addition, the Contractor's commitment to the CRAF program will be extended for the entire period of CRAF activation, and for up to six months thereafter.

#### **2. SCHEDULES**

a. For the purposes of this paragraph "Schedules" shall mean the detailed arrangements regarding the date and time of day of the flight operation required to perform the air transportation services called for under this contract. To the extent such schedules are not specified in this contract, they shall be established by agreement between the Contractor and the CO or the Contracting Officer's Representative (COR) in accordance with the provisions of this paragraph. Scheduling for missions will be accomplished by TACC.

b. Schedule Formation and Coordination.

##### **(1) Fixed award cargo trips.**

AMC will provide proposed schedules for Contractor coordination at the conclusion of negotiations (approximately 30 calendar days prior to the month of operation). Contractor shall provide the following in writing to appropriate planner/planning directorate in TACC within three (3) working days after verbal or other notification of the proposed AMC schedule;

(a) confirmation of proposed schedule; or

(b) a proposed alternative schedule.

##### **(2) Fixed award passenger trips.**

AMC will provide proposed schedules for Contractor coordination at the conclusion of negotiations (approximately 90 calendar days prior to the month of operation.) Contractor shall provide the following in writing to appropriate planner/planning directorate in TACC within three (3) working days after verbal or other notification of the proposed AMC schedule;

(a) confirmation of proposed schedule; or

(b) a proposed alternative schedule.

##### **(3) Expansion Requirements.**

All trips ordered under peacetime expansion provisions will be scheduled no later than 72 hours after notice of order; require confirmation within 24 hours, and will be ordered in accordance with Section H, paragraph 19. However, for quarterly expansion requirements, schedules should be provided within an estimated 5-7 workdays after notice and confirmed within 5-7 days.

c. Schedules may be revised upon request of either the Government or the Contractor, provided the requester provides a minimum of 12 hours prior to the scheduled departure of the trip involved and the requested change is mutually agreed upon.

### 3. DIVERSIONS AND REROUTES

a. **Diversions:** The Government or the Contractor has the right to divert any trip due to the threat of, or actual hostilities, weather, medical emergency or natural disaster. The Contractor shall be paid the USTRANSCOM rate for Government directed diversions.

b. **Reroute:** The Contractor grants the Government the right to reroute trips, subject to mutual agreement of the parties. Contractor shall be paid at the USTRANSCOM rate for the rerouted trip using Great Circle Statute Miles (GCSM) from airport to airport, for mileage computation.

### 4. GOVERNMENT CONTROLLABLE DELAYS - CARGO (DEMURRAGE)

The Contractor will be compensated for departure delays of more than 3 hours beyond the scheduled block time on completed cargo missions when delay is Government controllable. Demurrage charges are limited to delays in loading or unloading but exclude delays due to damage resulting from the negligence of Government personnel. The compensation will be as set forth in Section B, paragraph 3(a)(1). Delays due to Act of God, Air Traffic Control (ATC) or Contractor controllable reasons will not be compensated. Demurrage applies to peacetime business only. Demurrage is calculated by subtracting the 3 hours from the total number of hours (rounded to the nearest hour) the aircraft is delayed. These hours are then multiplied by the price set forth in Section B, paragraph 3(a)(1) based on aircraft type. Following is an example of how demurrage will be calculated:

B-747 cargo aircraft is scheduled to depart at 0700. Departure is delayed due to a broken K-loader until 1140 (4 hours 40 minutes Government controlled delay). Contractor is entitled to demurrage payment of \$2940. (1 hour 40 minutes rounded to the next whole hour multiplied by \$1470 per hour, as outlined in Section B, paragraph 3(a)(1).)

**PART I - THE SCHEDULE**

**SECTION G - CONTRACT ADMINISTRATION DATA**

**1. DFARS 252.232.7003 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (MAR 2008)**

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

(1) "Contract financing payment" and "invoice payment" have the meanings given in section 32.001 of the Federal Acquisition Regulation.

(2) "Electronic form" means any automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using Wide Area WorkFlow (WAWF) or another electronic form authorized by the Contracting Officer.

(3) "Payment request" means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests and receiving reports using WAWF, in one of the following electronic formats that WAWF accepts: Electronic Data Interchange, Secure File Transfer Protocol, or World Wide Web input. Information regarding WAWF is available on the Internet at <https://wawf.eb.mil/>.

(c) The Contractor may submit a payment request and receiving report using other than WAWF only when—

(1) The Contracting Officer authorizes use of another electronic form. With such an authorization, the Contractor and the Contracting Officer shall agree to a plan, which shall include a timeline, specifying when the Contractor will transfer to WAWF;

(2) DoD is unable to receive a payment request or provide acceptance in electronic form;

(3) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor. In such cases, the Contractor shall include a copy of the Contracting Officer's determination with each request for payment; or

(4) DoD makes payment for commercial transportation services provided under a Government rate tender or a contract for transportation services using a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System).

(d) The Contractor shall submit any non-electronic payment requests using the method or methods specified in Section G of the contract.

(e) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

**2. CONTRACTOR POINT OF CONTACT**

The Contractor shall furnish to the ACO at USTRANSCOM/TCAQ-C:

a. The name of a primary and alternate point of contact who will serve as a liaison between the Contractor and the Administrative Contracting Officer (ACO). Individuals designated must have authority to adjust schedules, engage substitute service, and make decisions pertinent to the airlift service in the name of the Contractor.

b. The name of a point of contact to serve as liaison between the Contractor and the Contract Administrator (CA) responsible for each station transited in accordance with paragraphs 1.1.1 and 1.3.10 of Section C, PWS, Section 1.

### **3. ELECTRONIC FUNDS TRANSFER (EFT)**

Payment to the Contractor by the Government shall be accomplished by the electronic transfer of funds directly into a designated bank account (see Section I, FAR 52.232-33).

### **4. PAYMENT OF LANDING AND PARKING FEES**

The Contractor shall pay all required airport service fees and charges. Such fees and charges are not reimbursable since they are included as part of the USTRANSCOM uniform negotiated rate.

### **5. PAYMENT REQUESTS FOR CONTRACT SERVICES**

a. **General.** Reference contract Section G, paragraph 1(b). Contractors should use Wide Area WorkFlow-Receipt and Acceptance (WAWF-RA) for all payments made for services. In accordance with DFARS 252.232-7003 Electronic Submission of Payment Requests (page G-1) and the Wide Area Workflow Receipt and Acceptance (WAWF-RA) Electronic Receiving and Invoicing Instructions, Attachment 3, page 1 of 2, the contractor shall submit payment requests via WAWF-RA **only**. Information regarding WAWF-RA is available on the Internet at <https://wawf.eb.mil>.

b. Initiate a separate payment request for each completed payment requested. Do not combine payment requests.

c. A declaration of actual ferry routing and mileage for all ferry (except for round trips where the ferry mileage is between the originating station and the terminating station) shall be submitted. Ferry Declaration shall include aircraft tail number, ferry routing as flown, actual miles flown, and signature of person authorized to bind the Contractor. Contractor shall be paid either the contracted ferry miles or actual ferry miles flown, whichever is less. Refer to Attachment 3, page 2 of 2, for sample Ferry Declaration format.

## PART I - THE SCHEDULE

### SECTION H - SPECIAL CONTRACT REQUIREMENTS

#### 1. PASSENGER AND PUBLIC LIABILITY INSURANCE

a. **General.** Prior to performance of any services hereunder, the contractor shall, at its own expense, procure and maintain during the entire performance period of this contract, with financially and legally responsible insurance company or companies, passenger and public liability insurance in accordance with paragraph b or c, below. Liability insurance purchased pursuant to the requirements of this paragraph shall cover payment to the Government, pursuant to the subrogation provision of the Medical Care Recovery Act (42 USC 2651-3) and within the liability limitations of this contract, of the cost of Government provided medical care to the extent that said insurance would cover payment to injured individuals of the cost of medical care in the absence of any Government obligation to provide medical care. The contractor shall furnish to the Contracting Officer Evidence of Insurance, duly executed by the Insurer, of the insurance required by this paragraph. The Evidence of Insurance shall substantially conform to the form set forth in para 2 of this section. If a court of competent jurisdiction determines that any transportation furnished pursuant to this contract is subject to the Warsaw Convention, 49 Stat. 3000, and that the contractor is entitled to limit its liability under that Convention, then the minimum limit of insurance required by this clause shall be considered to be a "higher limit of liability agreed to by special contract" as contemplated by the last sentence of Article 22(l) of that Convention, and the contractor agrees that it shall not with respect to any claim arising out of the death, wounding, or other bodily injury of a passenger, avail itself of any defense under Article 20(l) of the Convention. Nothing herein shall be deemed to affect the rights and liabilities of the contractor with regard to any claim brought by, on behalf of, or in respect of any person who has willfully caused damage which resulted in death, wounding, or other bodily injury of a passenger. See note below subparagraph c(2).

b. **Split Limits Liability.** The minimum limits of liability insurance coverage maintained by the contractor shall be as follows:

(1) Liability for bodily injury to or death of aircraft passengers: A limit for any one passenger of at least three hundred thousand dollars (\$300,000.00), and a limit for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying three hundred thousand dollars (\$300,000.00) by the next highest whole number resulting from taking 75 percent of the total number of passenger seats installed in the aircraft.

(2) Liability for bodily injury to or death of persons (excluding passengers): A limit of at least three hundred thousand dollars (\$300,000.00) for any one person in any one occurrence, and a limit of at least twenty million dollars (\$20,000,000.00) for each occurrence.

(3) Liability for loss of or damage to property: A limit of at least twenty million dollars (\$20,000,000.00) for each occurrence.

c. **Combined Single Limit Liability.**

(1) Notwithstanding the provisions of paragraph b above the contractor may be insured for a single limit of liability for each occurrence. In that event, coverage shall be equal to or greater than the combined required minimums set forth in paragraph b, above, for bodily injury, property damage, and/or passenger liability for the type of use to which such aircraft is put, as the case may be.

(2) In the case of a single limit of liability, aircraft may be insured by a combination of primary and excess policies. Such policies shall have combined coverage equal to or greater than the required minimums set forth in paragraph b, above, for bodily injury to non-passengers, property damage, and/or passenger liability for the type of use to which the aircraft is put, as the case may be.

**NOTE:** To the extent that the Montreal Convention, 1999, Convention for the Unification of Certain Rules for International carriage by Air, is inconsistent with the terms of this contract regarding insurance, the Montreal Convention will take precedence.

## 2. EVIDENCE OF INSURANCE – PASSENGER AND PUBLIC LIABILITY

(a) Prior to performance of any services hereunder, the contractor shall provide the Government with appropriate evidence of insurance in accordance with paragraphs a, b and c, Section H, paragraph 1. The evidence shall substantially conform to the following paragraph:

\_\_\_\_\_  
Name of Insurer (Hereinafter called the Insurer)  
of \_\_\_\_\_  
Address of Insurer  
has issued to \_\_\_\_\_

Name of Insured Policy \_\_\_\_\_, bearing policy number \_\_\_\_\_,  
with respect to the legal liability of the said Insured for aircraft passenger death or bodily injury, aircraft public death or bodily injury (excluding passengers) and aircraft property damage liabilities, effective from \_\_\_\_\_ through \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Insurer) (Current Date)

(b) The minimum limits of liability insurance coverage maintained by the Insured under the said policy are as follows\*:

(1) Liability for bodily injury to or death of aircraft passengers: A limit for any one passenger of at least three hundred thousand dollars (\$300,000.00), and a limit for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying three hundred thousand dollars (\$300,000.00) by the next highest whole number resulting from taking 75 percent of the total number of passenger seats installed in the aircraft.

(2) Liability for bodily injury to or death of persons (excluding passengers): A limit of at least three hundred thousand dollars (\$300,000.00) for any one person in any one occurrence, and a limit of at least twenty million dollars (\$20,000,000.00) for each occurrence.

(3) Liability for loss of or damage to property: A limit of at least twenty million dollars (\$20,000,000.00) for each occurrence.

(4) The Insurer further agrees that the insurance afforded under this policy covers payment to the Government, pursuant to the subrogation provision of the Medical Care Recovery Act (42 USC 2651-3), of the cost of Government provided medical care to the extent that said insurance would cover payment to injured individuals of the cost of medical care in the absence of any Government obligation to provide medical care.

The terms and conditions of the policy apply throughout the world. The following aircraft are covered by the policy identified above:

\_\_\_\_\_  
(List aircraft individually or "All aircraft owned and operated by the Insured")

(c) The parties recognize that the policy may exclude certain liabilities with respect to any DOD operations involving the Civil Reserve Air Fleet (CRAF) subsequent to the effective date of activation of the CRAF. The excluded liabilities will be those where a loss may be incurred during the activation of the CRAF under circumstances such that it cannot be demonstrated that the loss is either attributable to a war risk and therefore reimbursable under FAA Chapter 443, or attributable to cause other than war risk and therefore required to be covered by the Contractor's commercial insurance.

The policy contains the attached endorsement.

By \_\_\_\_\_  
(Company)



\_\_\_\_\_  
(City, State)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\*In the case of a combined single limit of liability, the Insurer will be required to describe the amount or amounts of insurance coverage.

"ENDORSEMENT" (Attachment to the Evidence of Insurance)

It is agreed, that, with respect only to operations of the named Insured performed under contract with the United States Transportation Command, Department of Defense (DoD), and with respect only to Aircraft Liability Insurance afforded under this policy, the following conditions shall also apply:

a. The Insurer agrees that, the insurance afforded under this policy shall not be subject to any lower limits of liability of the Warsaw Convention, 49 Stat. 3000, for the death or bodily injury of any passenger. If that convention should otherwise be deemed to be applicable to any passenger death or bodily injury liability, then to the extent stated in the preceding sentence, this insurance shall be deemed to be a higher limit of liability agreed to by special contract as contemplated by the last sentence of Article 22(1) of that convention.

b. The exclusions of the policy are deleted and the following substituted therefore:

The insurance afforded under this policy shall not apply to:

(1) Any loss against which the named Insured has other valid and collectible insurance, except that the limits of liability provided under this policy shall be excess of the limits provided by such other valid and collectible insurance but in no event exceeding the limits of liability expressed elsewhere in this policy.

(2) Any loss arising from the ownership, maintenance or use of any type of aircraft not declared to the Insurer in accordance with the terms and conditions of this policy.

(3) Liability assumed by the Insured under any contract or agreement except as stated in this contract with respect to limitations of the Warsaw Convention.

(4) Bodily injury, sickness, disease, mental anguish or death of any employee of the Insured while engaged in the duties of his employment, or any obligation for which the Insured or any company as his Insurer may be held liable under any Workman's Compensation or occupational disease law.

(5) Damage to or destruction of property owned, rented, occupied, or used by, or in the care, custody or control of the Insured, or carried in or on any aircraft with respect to which the insurance afforded by this policy applies.

(6) Personal injuries or death or damage to or destruction of property, caused directly or indirectly, by hostile or warlike actions, including action in hindering, combating or defending against an actual, impending or expected attack by any Government or sovereign power, de jure or de facto, or military, naval or air forces; the discharge, explosion, or use of any weapon of war employing atomic fission, or atomic fusion, or radioactive materials; insurrection, rebellion, revolution, civil war or usurped power, including any action in hindering, combating or defending against such an occurrence, or confiscation by any Government or public authority.

c. The Insurer hereby waives any right of subrogation it may have against the United States of America, by reason of any payment under the aforesaid policy of insurance, with respect to loss caused to transportation services by acts of the United States of America or any agency thereof, which acts are in conjunction with the performance by the named Insured of any services under said contract.

d. In the event the Insurer elects to cancel the insurance afforded under this policy, the Insurer hereby agrees that such cancellation shall not be effective unless written notice thereof shall be sent by the Insurer by registered mail not less than 30 days in advance of such cancellation, direct to the United States Transportation Command, 508 Scott Dr.,

Scott Air Force Base, Illinois, Attention: TCAQ-C, and in the event the named Insured requests such cancellation, the Insurer agrees to notify, by registered mail, the above stated activity immediately upon receipt of such request.

e. Anything in the policy to the contrary notwithstanding, the aircraft may be operated by pilots authorized by the named Insured.

f. Violations of regulations prescribed by the Federal Aviation Administration (FAA) shall not prejudice the insurance afforded by this policy.

g. No special waiver issued by the FAA shall affect the insurance afforded hereunder.

h. Any exclusions, conditions or other provisions of this endorsement, which have the effect of restricting or nullifying the coverage already granted by this policy in the absence of this endorsement, shall not apply.

Endorsement to Policy No: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Countersigned: \_\_\_\_\_ (Date)

Company \_\_\_\_\_

### 3. CONTRACTOR ACQUIRED INSURANCE

a. The Contractor shall procure and maintain during the entire period of performance under this contract the following minimum insurance in addition to the insurance required by paragraph 1, of this section:

| TYPE  | AMOUNT                   |
|---|--------------------------|
| <u>Automobile</u>                                     |                          |
| Bodily Injury Liability                               | \$200,000 per person     |
|   | \$500,000 per occurrence |
| Property Damage Liability                             | \$20,000 per occurrence  |
| <u>Comprehensive General Liability</u>                |                          |
| Bodily Injury Liability                               | \$500,000 per occurrence |
| <u>Workmen's Compensation and Employers Liability</u> |                          |
| Workman's Comp & Occupational Disease                 | Statutory                |
| Employer's Liability                                  | \$100,000                |

b. Contractor shall comply with the requirements of contract clause "Insurance - Work on a Government Installation" concerning notice to the Contracting Officer.

### 4. REQUIREMENT FOR INDEMNIFICATION APPROVAL

Notwithstanding the inclusion of FAR 52.250-1 and the clause entitled Definition of Unusually Hazardous Risk in Section I, indemnification will apply to performance under this contract only after Under Secretary of Defense for Acquisition, Technology and Logistics approval and after the contractor is notified by the Contracting Officer that the Commander USTRANSCOM is implementing indemnification for a specific mission or missions.

**5. FAA CHAPTER 443 NON-PREMIUM WAR RISK HULL AND LIABILITY INSURANCE  
(PREVIOUSLY TITLE XIII)**

The Contractor shall apply for Chapter 443 Non-Premium Aviation Insurance from the FAA, register all aircraft committed to CRAF as listed in Appendix 3A, and supply the FAA with a complete copy of its current Hull and Comprehensive Liability commercial insurance policies. The Contractor shall promptly notify the FAA of any tail number additions, removals, and/or changes in the aircraft committed to CRAF to ensure that the Contractor is covered by Chapter 443 Non-Premium Aviation Insurance without delay while operating CRAF-like missions to which Non-Premium 443 applies or in the event of a CRAF activation.

**6. RESPONSIBILITY FOR GOVERNMENT CARGO**

a. Property (hereinafter referenced in this paragraph as Government cargo) placed in Contractor's possession for the sole purpose of air transportation shall not be deemed to be Government Property within the meaning of the Government Property Clause. Government cargo, within the meaning of this paragraph, does not include passenger baggage.

b. The Government hereby relieves the Contractor of liability for loss of, or damage to, any and all Government cargo transported by the Contractor in performance of this contract, except such loss, destruction and damage resulting from the willful misconduct or lack of good faith of any of the Contractor's managerial personnel, as defined in the contract clause entitled "Government Property," and except as outlined in paragraphs 1.3.11. and 1.3.11.1 in, Section C, PWS, Section 1:

To the extent insurance required by subparagraph b (3) of paragraph entitled, "Passenger and Public Liability Insurance" of this Section or the appropriate portion of subparagraph c of paragraph entitled, "Passenger and Public Liability Insurance" of this Section (if Combined Single Limit Liability is used), is not required for payment of third party claims, the balance of said insurance shall apply to Government cargo loss, damage or destruction thereto.

**7. COLLECTIVE BARGAINING UNITS**

a. The Contractor agrees to advise the applicable Collective Bargaining Units of the contract requirements set forth in Section C, PWS, Section 4, paragraphs 4.0 and 4.1.

b. The Contractor agrees to provide the Contracting Officer, upon request, a copy of any Collective Bargaining Agreement applicable to employees performing on this contract.

**8. LEGAL DOCUMENTS**

The Contractor shall submit, simultaneously with its transfer to the DOT, one copy to USTRANSCOM/TCAQ-C and one copy to USTRANSCOM/JA of each application, pleading, or other document submitted to said Agency by the Contractor or by any organization of which the Contractor is a member, which application, pleading, or other document pertains, directly or indirectly, to this or any other contract for air transportation to which USTRANSCOM is a party or is expected to be a party. Included among such pleadings is any pertaining to the leasing of any aircraft listed in Appendix 3A.

**9. FAR 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

The Government may require continued performance of services for a maximum of six (6) months and the USTRANSCOM Uniform Rate for FY09 shall apply. In the event the Government exercises this option, prices shall be determined in accordance with paragraph 3 of Section B. This option may be exercised more than once, but the total extension of performance hereunder shall not exceed six (6) months. The Contracting Officer may exercise the option by written notice to the Contractor not later than 30 days prior to expiration of the contract.

**10. SUBMISSION OF COST AND PRICING DATA—MEMORANDUM OF UNDERSTANDING (MOU)**

Contractors who are required to submit certified cost and pricing data pursuant to the MOU shall do so within the time specified by USTRANSCOM TCAQ. Failure to provide certified cost and pricing data within the defined time may result in a reduction of such offerors' entitlement for the purpose of awarding business for the forecast year. Mobilization points may be reduced at a rate of one percentage point per day late, up to a maximum reduction of 30 percent. Requirements for submission of certified cost and pricing data are addressed in the MOU and procedures defined in FAR 15.403-4, entitled "Requiring Cost or Pricing Data (10 U.S.C. 2306a and 41 U.S.C. 254b)", paragraph (b).

**11. CRAF ACTIVATION ACCOUNTING**

Separate accounting of costs during CRAF activation shall be maintained where Contractors anticipate extra contractual cost occurrences. The Contractor should maintain separate accounts, by job order or other suitable accounting procedures, of all incurred direct costs (less allocable credits) allocable to CRAF activation. If established, such accounts shall be maintained for three years after final payment under this contract.

**12. PROVISIONAL PAYMENT OF EQUITABLE ADJUSTMENTS**

The Contractor may submit requests for equitable adjustment for costs incurred outside the USTRANSCOM uniform rate during CRAF activation in accordance with the terms and conditions of this contract. The equitable adjustment request may include a request for provisional payment against the amount requested. The Administrative Contracting Officer will review such requests and may approve a provisional payment against such requests for reasonable costs incurred outside the Uniform Rate. The provisional payment amount shall be determined by the Administrative Contracting Officer but under no circumstances will payment be approved for any costs that the Administrative Contracting Officer does not believe are reasonable, allocable to this contract and incurred as a result of the contract. Any payment made under this clause shall be deducted from the final equitable adjustment settlement. If the provisional payments exceed the final equitable adjustment settlement, the Contractor shall refund the amount of the overpayment to the Government on demand, plus interest at the current US. Treasury rate, in accordance with FAR 32.614.

**13. INVITED CONTRACTOR OR TECHNICAL REPRESENTATIVE STATUS UNDER U.S. - REPUBLIC OF KOREA (ROK)**

Invited Contractor (IC) or Technical Representative (TR) status shall be governed by the U.S. – ROK Status of Forces Agreement (SOFA) as implemented by United States Forces Korea (USFK) Reg 700-19, which can be found under the "publications" tab on the US Forces Korea homepage <http://www.usfk.mil>

(a) Definitions. As used in this clause---

"U.S. – ROK Status of Forces Agreement" (SOFA) means the Mutual Defense Treaty between the Republic of Korea and The U.S. of America, Regarding Facilities and Areas and the Status of U.S. Armed Forces in the Republic of Korea, as amended.

"Combatant Commander" means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161. In Korea, the Combatant Commander is the Commander, United States Pacific Command.

"United States Forces Korea" (USFK) means the subordinated unified command through which US forces would be sent to the Combined Forces Command fighting components.

"Commander, United States Forces Korea" (COMUSK) means the commander of all U.S. forces present in Korea. In the Republic of Korea, COMUSK also serves as Commander, Combined Forces Command (CDR CFC) and Commander, United Nations Command (CDR UNC).

"USFK, Assistant Chief of Staff, Acquisition Management" (USFK/FKAQ) means the principal staff office to USFK for all acquisition matters and administrator of the U.S. -ROK SOFA as applied to US and Third Country contractors under the Invited Contractor (IC) and Technical Representative (TR) Program (USFK Reg 700-19).

"Responsible Officer (RO)" means a senior DOD employee (such as military E5 and above or civilian GS-7 and above), appointed by the USFK Sponsoring Agency (SA), who is directly responsible for determining and administering appropriate logistics support for IC/TRs during contract performance in the ROK.

(b) IC or TR status under SOFA is subject to the written approval of USFK, Assistant Chief of Staff, Acquisition Management (FKAQ), Unit #15237, APO AP 96205-5237.

(c) The contracting officer will coordinate with HQ USFK/FKAQ, IAW FAR 25.8, and USFK Reg 700-19. FKAQ will determine the appropriate contractor status under the SOFA and notify the contracting officer of that determination.

(d) Subject to the above determination, the contractor, including its employees and lawful dependents, may be accorded such privileges and exemptions under conditions and limitations as specified in the SOFA and USFK Reg 700-19. These privileges and exemptions may be furnished during the performance period of the contract, subject to their availability and continued SOFA status. Logistics support privileges are provided on an as-available basis to properly authorized individuals. Some logistics support may be issued as Government Furnished Property or transferred on a reimbursable basis.

(e) The contractor warrants and shall ensure that collectively, and individually, its officials and employees performing under this contract will not perform any contract, service, or other business activity in the ROK, except under U.S. Government contracts and that performance is IAW the SOFA.

(f) The contractor's direct employment of any Korean-National labor for performance of this contract shall be governed by ROK labor law and USFK regulation(s) pertaining to the direct employment and personnel administration of Korean National personnel.

(g) The authorities of the ROK have the right to exercise jurisdiction over invited contractors and technical representatives, including contractor officials, employees and their dependents, for offenses committed in the ROK and punishable by the laws of the ROK. In recognition of the role of such persons in the defense of the ROK, they will be subject to the provisions of Article XXII, SOFA, related Agreed Minutes and Understandings. In those cases in which the authorities of the ROK decide not to exercise jurisdiction, they shall notify the U.S. military authorities as soon as possible. Upon such notification, the military authorities will have the right to exercise jurisdiction as is conferred by the laws of the U.S.

(h) Invited contractors and technical representatives agree to cooperate fully with the USFK Sponsoring Agency (SA) and Responsible Officer (RO) on all matters pertaining to logistics support and theater training requirements. Contractors will provide the assigned SA prompt and accurate reports of changes in employee status as required by USFK Reg 700-19.

(i) Theater Specific Training. Training Requirements for IC/TR personnel shall be conducted in accordance with USFK Reg 350-2 Theater Specific Required Training for all Arriving Personnel and Units Assigned to, Rotating to, or in Temporary Duty Status to USFK. IC/TR personnel shall comply with requirements of USFK Reg 350-2.

(j) Except for contractor air crews flying Air Mobility Command missions, all U.S. contractors performing work on USAF classified contracts will report to the nearest Security Forces Information Security Section for the geographical area where the contract is to be performed to receive information concerning local security requirements.

(k) Invited Contractor and Technical Representative status may be withdrawn by USFK/FKAQ upon:

(1) Completion or termination of the contract.

(2) Determination that the contractor or its employees are engaged in business activities in the ROK other than those pertaining to U.S. armed forces.

(3) Determination that the contractor or its employees are engaged in practices in contravention to Korean law or USFK regulations.

(1) It is agreed that the withdrawal of invited contractor or technical representative status, or the withdrawal of, or failure to provide any of the privileges associated therewith by the U.S. and USFK, shall not constitute grounds for excusable delay by the contractor in the performance of the contract and will not justify or excuse the contractor defaulting in the performance of this contract. Furthermore, it is agreed that withdrawal of SOFA status for reasons outlined in USFK Reg 700-19, Section II, paragraph 6 shall not serve as a basis for the contractor filing any claims against the U.S. or USFK. Under no circumstance shall the withdrawal of SOFA Status or privileges be considered or construed as a breach of contract by the U.S. Government.

(m) Support.

(1) Unless the terms and conditions of this contract place the responsibility with another party, the COMUSK will develop a security plan to provide protection, through military means, of Contractor personnel engaged in the theater of operations when sufficient or legitimate civilian authority does not exist.

(2)(i) All Contractor personnel engaged in the theater of operations are authorized resuscitative care, stabilization, hospitalization at level III military treatment facilities, and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system.

(ii) When the Government provides medical or emergency dental treatment or transportation of Contractor personnel to a selected civilian facility, the Contractor shall ensure that the Government is reimbursed for any costs associated with such treatment or transportation.

(iii) Medical or dental care beyond this standard is not authorized unless specified elsewhere in this contract.

(3) Unless specified elsewhere in this contract, the Contractor is responsible for all other support required for its personnel engaged in the theater of operations under this contract.

(n) Compliance with laws and regulations. The Contractor shall comply with, and shall ensure that its personnel supporting U.S. Armed Forces in the Republic of Korea as specified in paragraph (b)(1) of this clause are familiar with and comply with, all applicable --

(1) United States, host country, and third country national laws;

(2) Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures; and

(4) Orders, directives, and instructions issued by the COMUSK relating to force protection, security, health, safety, or relations and interaction with local nationals. Included in this list are force protection advisories, health advisories, are (i.e. "off-limits"), prostitution and human trafficking and curfew restrictions.

(o) Vehicle or equipment licenses. IAW USFK Regulation 190-1, Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the theater of operations. All contractor employees/dependents must have either a Korean driver's license or a valid international driver's license to legally drive on Korean roads, and must have a USFK driver's license to legally drive on USFK installations. Contractor employees/dependents will first obtain a Korean driver's license or valid international driver's license then obtain a USFK driver's license.

(p) Evacuation.

(1) If the COMUSK orders a non-mandatory or mandatory evacuation of some or all personnel, the Government will provide assistance, to the extent available, to United States and third country national contractor personnel.

(2) Non-combatant Evacuation Operations (NEO).

(i) The contractor shall designate a representative to provide contractor personnel and dependents information to the servicing NEO warden as required by direction of the Responsible Officer.

(ii) If contract period of performance in the Republic of Korea is greater than six months, non emergency essential contractor personnel and all IC/TR dependents shall participate in at least one USFK sponsored NEO exercise per year.

(q) Next of kin notification and personnel recovery.

(1) The Contractor shall be responsible for notification of the employee-designated next of kin in the event an employee dies, requires evacuation due to an injury, or is missing, captured, or abducted.

(2) In the case of missing, captured, or abducted contractor personnel, the Government will assist in personnel recovery actions in accordance with DOD Directive 2310.2, Personnel Recovery.

(3) IC/TR personnel shall accomplish Personnel Recovery/Survival, Evasion, Resistance and Escape (PR/SERE) training in accordance with USFK Reg 525-40, Personnel Recovery Procedures and USFK Reg 350-2 Theater Specific Required Training for all Arriving Personnel and Units Assigned to, Rotating to, or in Temporary Duty Status to USFK.

(r) Mortuary affairs. Mortuary affairs for contractor personnel who die while providing support in the theater of operations to U.S. Armed Forces will be handled in accordance with DOD Directive 1300.22, Mortuary Affairs Policy and Army Regulation 638-2, Care and Disposition of Remains and Disposition of Personal Effects.

(s) USFK Responsible Officer (RO). The USFK appointed RO will ensure all IC/TR personnel complete all applicable training as outlines in this clause.

#### **14. EXEMPTION FROM THE AIR PASSENGER DUTY IN THE UNITED KINGDOM**

The Contractor shall request relief from Her Majesty's Air Passenger Duty for all passenger travel performed within the United Kingdom under the terms of this contract. Said request shall be forwarded to Head Office Control Team, HM Customs and Excise, Cambridge Excise, Lockton House, Clarendon Road, Cambridge, CB2 2BH, and shall include reference to the following:

This relief is in accordance with arrangements and agreements between the appropriate US Government authority and HM customs and Excise (reference RDM 513/539/01). All US Government personnel traveling under the authority of this contract are traveling for official purposes and the travel is reimbursed from official funds of the US Government.

Specific reference is made to this contract.

Failure to apply for said relief shall not be basis for a claim for equitable adjustment.

#### **15. DEFICIT TRAFFIC**

a. This term applies to a situation where the Contractor's aircraft departed but the full amount of traffic within the guaranteed ACL could not be transported on the flight involved due to reasons caused by the Contractor. The deficit shall be charged from the station where it is incurred through to the first Government scheduled traffic stop where the deficit is corrected and the Government may utilize the space. Contractor shall be paid at the USTRANSCOM

negotiated uniform price for that portion of the trip, if any, over which he transported said traffic, less a seat mile or ton mile reduction caused by the deficit. The Contractor shall not bill for the dollar value of the deficit traffic, and the Government's guarantee with respect to that mission is reduced accordingly. Deficit traffic moved by a Contractor on any subsequent flight will be considered as newly generated traffic.

b. Below is an example of deficit traffic calculation. The rates are approximations, not the current uniform rate. Actual deficit reduction will be based on actual uniform rates for the appropriate period of performance.

ROUTE: KNKT-(PANC)-(RJTY)-RODN-(RJTY)-(PANC)-KNKT

MILES: 16,020

RATE: \$.11 (round-trip passenger rate per seat mile)

ACL: 190 seats

Situation: Two seats were unavailable for use from Kadena AB (RODN) to Cherry Point MCAS (KNKT). The two-seat deficit is calculated as follows:

8010 miles (RODN-(RJTY)-(PANC)-KNKT); times, \$.11 per seat mile (RATE); times, two seats (number of seats not available for AMC use) = \$1,762.20 Total Deficit.

#### 16. BUMPING PASSENGERS ON NON-STOP SERVICE

a. The Contractor shall provide non-stop service as specified on Section B line items. In the event the ACL must be reduced to provide non-stop service, the Contractor shall move space required bumped passengers on the next available scheduled service flight. The bumped passengers become the sole responsibility of the carrier until moved, to include but not limited to, meals, lodging and transportation to and from lodging. In addition, if deemed appropriate by the ACO, the contracted price will be discounted by the percentage of bumped passengers. The discount will be computed by dividing the bumped passenger count by the contracted ACL. That percentage will be applied to the price for the portion of the flight not flown with the contracted ACL.

b. For example: A MD-11 is contracted for 360 passengers to fly Seattle-Osan-Kunsan-Osan-Seattle. The contract price for the Seattle-Osan leg (5614 miles) is \$145,959.51. The carrier cannot fly non-stop from Seattle to Osan without bumping 18 passengers to reduce the weight.  $18 \div 360 = 5\%$ .  $\$145,959.51 \times 5\% = \$7,297.98$ . The total trip price of \$296,078.40 will be reduced by \$7,297.98 for a paid total of \$288,780.42.

c. The Government may invoke remedies which are set forth in this paragraph which will neither constitute a termination within the meaning of "FAR 52.249-2, Termination for Convenience of the Government (Fixed-Price)," nor in any way, diminish the Government's rights under the Clause entitled "Default." The rights and remedies of the Government provided for in this paragraph are not exclusive and do not give rise to Government liability for costs incurred and are in addition to any other Government rights and remedies provided for by law or by this contract.

#### 17. TRIP CANCELLATION

a. **General.** The Contracting Officer may unilaterally cancel an occasional mission, provided notification is given the Contractor. Any verbal notification will be confirmed in writing. Large-scale cancellations or long term reduction of requirements will not normally be covered by this paragraph. Any reference to days in this clause means a continuous 24-hour period. All "days" in this clause refer to "calendar days."

(1) A cancellation charge will be paid on missions canceled with notification given within the time frames noted below. Times are all prior to scheduled departure. The cancellation charge will be applied to the trip price for the route segment only (ferry, stop charges, Eurocontrol surcharge or any other additional charges will not be included). Cancellation percentages are set forth in the US TRANSCOM Final Fiscal Year 2009 Uniform Negotiated Rates and Rules. Cancellation charges will not apply to missions terminated or canceled due to weather situations or threat of hostilities beyond the control of the Contractor or the Government.

(a) Seven days or less



- (b) 8 to 14 days
- (c) 15 to 30 days
- (d) 31 to 45 days: Passenger and Combi  
31 to 75 days: Cargo
- (e) Beyond 45 days: Passenger and Combi  
Beyond 75 days: Cargo

(2) Missions awarded less than 14 days prior to the operating date and subsequently canceled will be paid a cancellation charge.

(3) Missions awarded less than 5 days prior to the operating date and subsequently canceled will not be paid a percentage cancellation charge. The Contractor shall submit actual incurred mission costs for reimbursement consideration.

(4) Contractor may elect to accept replacement missions in lieu of a cancellation charge.

**b. No Cost Cancellations**

(1) The Government will accrue one no-cost cancellation per quarter (beginning Oct, Jan, Apr, and Jul) from all Contractors (in the event of a teaming arrangement, each individual member of the team) who have operated 30 or more missions during the previous quarter (Oct will be based on missions from the previous contract). These no-cost cancellations may be applied to either fixed or expansion buys.

(2) No-cost cancellations may be used by the Government in lieu of paying a cancellation charge for missions canceled with at least 7 days notice and can be used at any time during the contract periods. If a mission is canceled with less than 7 days notice, the application of a no-cost cancellation is subject to mutual agreement.

(3) No-cost cancellations will not be carried over from the current contract to the next contract.

**18. TRANSFARS 5552.247-9002 CONTRACTOR'S FAILURE TO PROVIDE SERVICE (AUG 2008)**

(a) In the event that contractor's aircraft is unable to depart from any station, the government may invoke remedies which are set forth in this paragraph which will neither constitute a termination within the meaning of the clause entitled "Termination for Convenience of the Government," nor in any way diminish the government's rights under the clause entitled "Default." The rights and remedies of the government provided for in this paragraph are not exclusive and do not give rise to government liability for costs incurred and are in addition to any other government rights and remedies provided for by law or by this contract.

(b) Substitute Service. This term, as used herein, applies to the substitution of an aircraft to replace contractor's aircraft, which is unable to proceed from the departure station or from any en route station short of destination in accordance with schedules established pursuant to this contract. If the contractor fails to make an aircraft available for departure within 16 hours subsequent to scheduled departure time for a passenger flight or a mixed flight from an originating station or an en route station, or within 4 hours of a scheduled departure time for a passenger flight or a mixed flight from an en route station where no holding facilities for passengers are available, or within 24 hours of a scheduled departure time for a cargo flight from either the originating station or an en route station, or for any flight within such lesser time as may be agreed to by the contractor's designee, the government may: (1) cancel the requirement for further movement of the defaulted flight; (2) require the contractor to transport the defaulted passengers or cargo by substitute service within such additional time as the contracting officer may allow; (3) acquire substitute service from commercial sources; or (4) reschedule the defaulted flight or transport the defaulted passengers or cargo, or any portion thereof, itself. The exercise of any of these options will be in accordance with the following:

(1) In the event that the requirement for further movement of the defaulted flight is canceled, the number of passengers equal to the Guaranteed Allowable Cabin Load (GACL) for the flight involved, or the number of pounds of cargo equal to the GACL of the flight involved, or the number of miles for the flight involved, will be subtracted from the government's guarantee. Any canceled requirement will be deleted from the contract by unilateral modification. If the failure to depart was from the originating station, contractor will not be paid any amount for the flight involved. If the failure to depart was from an en route station, the contractor will be paid at the USTRANSCOM negotiated uniform rate for that portion of the trip over which he did transport the passengers or cargo.

(2) If the contractor is required to transport the passengers or cargo of the defaulted flight by substitute service within such additional time as the contracting officer may allow, the contractor shall arrange and pay directly all costs involved in the transportation by the substitute aircraft. In this event, the contractor will be paid the full contract price for the flight involved, irrespective of the amount paid by him for this transportation by substitute aircraft. The substitute aircraft provided by the contractor must be of like type, configured in accordance with the applicable specifications, and must be approved by the contracting officer. In lieu of, or in addition to, providing the above type substitute service, the contractor may, at his own expense, purchase the amount of space, by common carriage or otherwise, needed for the movement of the passengers or cargo of the defaulted flight. The purchase of such space must be approved by the contracting officer and must be obtained only from American Flag carriers, except that in the event an American Flag carrier is unavailable or not reasonably available for point-to-point substitute service within an overseas area, upon prior authorization of the contracting officer, the contractor may use a Foreign Flag schedule carrier for substitute service on an exception basis only and provided the requirements of the clause entitled "Preference for United States Flag Air Carriers," are complied with. In such event, contractor would be paid the contract price for the involved transportation. If contractor transports by purchase of common carriage only a part of the number of passengers or amount of cargo of the defaulted flight, he will only be paid for those passengers or cargo so transported, and the passengers or cargo not transported shall be deducted from the government's guarantee.

(3) The government may purchase substitute service from commercial sources. This can be by a substitute commercial aircraft or by the purchase from commercial sources of sufficient space to transport by common carriage or otherwise, the number of passengers or amount of cargo involved in the defaulted flight. In either event, the substitute service shall be deducted from the government's guarantee and the contractor would be charged by the government, any amount that the government had to pay to commercial sources which is in excess of the contract price for the transportation of the passengers or cargo involved for the distance involved. (If this substitute service is obtained for only a portion of a trip as provided in the contract, the contract price will be prorated for the distance involved in determining the amount due to the government.) Contractor will not be paid any amount for the defaulted flight except that he will be paid at the USTRANSCOM negotiated uniform rate for that portion of the trip, if any, over which he did transport the passengers or cargo on the flight involved. The contractor shall provide all services normally provided in connection with flights operating under this contract. In the event the defaulted flight was to be performed between military bases and the government procures common carriage substitute service, the defaulting contractor shall be responsible for the transportation between the military bases and the commercial terminal.

(4) The government may, in its discretion, elect to either reschedule the defaulted flight to a later time within the performance period of the contract or may move these passengers and/or this cargo, or any portion thereof. In this event, the number of passengers equal to the GACL for the flight involved, or the number of pounds of cargo to the GACL of the flight involved, or the number of miles for the flight involved will be subtracted from the government's guarantee and the contractor will be charged, by the government, the excess, if any, of the charge for this movement over the contract price. If this movement is utilized for only a portion of a trip as provided in the contract, the contract price will be prorated for the distance involved in determining the amount due the government. Contractor will not be paid any amount for transportation of the passengers or cargo of the defaulted flight except that he will be paid at the USTRANSCOM negotiated uniform rate for that portion of the trip, if any, over which he did transport said passengers or cargo in the flight involved.

(c) The contracting officer may permit the contractor to provide services with substitute aircraft having a lower Allowable Cabin Load (ACL). When such substitution of aircraft is permitted, the contractor shall be reimbursed at the rate per ton/pax mile established in the original award times the lesser ACL with a corresponding reduction in the government's guarantee. In addition or as an alternative to providing substitute aircraft having a lower ACL, the contracting officer may permit the contractor to acquire, at his own expense, the amount of space, by common carriage, needed for movement of the pax or cargo equal to the ACL of the aircraft originally scheduled for the flight,

in which event the contractor will be paid at the contract rate for the pax and/or cargo within the GACL which are actually transported. The contracting officer may also permit the contractor to provide services with substitute aircraft having a higher ACL than the aircraft required for performance of services under the contract. In this event, the contractor will be reimbursed only the contract price for the flight as originally awarded.

(d) The contracting officer, in making his decisions and selections for substitute service, will use his discretion in such a manner as to mitigate contractor's liability for excess costs when reasonably possible. However, military needs and urgency will be the prime consideration in the exercise of this discretion.

(e) The provisions of Section C, Performance Work Statement, relative to contractor's responsibility for care of passengers, and for providing meals and billets, apply to all situations discussed in this clause, wherein the contractor failed to depart as scheduled. Contractor shall retain responsibility for passengers until such time as they are moved by the contractor or the government, or the requirement is canceled by the government.

(f) In the event the contractor fails to deliver any part of the GACL (pax or cargo) to manifested destination due to an accident, contractor will be paid at USTRANSCOM negotiated uniform rate only for that amount of pax or cargo delivered to manifested destination.

#### **19. ALLOCATION AND ORDERING OF EXPANSION AIRLIFT**

a. Expansion requirements will be awarded, based on entitlement, to the contractor who has submitted an acceptable offer in response to the Government's request for offers. Expansion entitlement will be calculated in the same manner as entitlement for the fixed, peacetime airlift award and as described in paragraph (b) below. Factors used to determine the acceptability of an offer include timeliness of submission, type and weight capacity of aircraft offered, date of availability, total cost of offer and contractor reliability and violation status. When two or more members of a Teaming Arrangement (TA) make acceptable offers for the same expansion requirement, the TA agent will determine which contractor will perform the mission.

b. Awards for expansion business will be allocated monthly based on entitlement calculated by dividing each contractor's mobilization value (MV) points by the total points of all entitled contractors offering in a category. Entitled contractor's MV points will be recalculated by the Government at the beginning of each quarter (October, January, April, July) beginning 1 Oct 07, to adjust for any aircraft offered by new contractors or for additional aircraft committed by contractors during the contract period. Contractors who propose STC compliant aeromedical evacuation aircraft throughout the year will also be evaluated and entitlement recalculated by the Government at the beginning of each quarter. If placing those aircraft in the aeromed program will result in exceeding the maximum of 50, a re-distribution or re-allocation of aircraft will be performed to ensure the new contractor has at least 2 aircraft in Stage II as described in Section M. Entitlement percentages will be recalculated for each category of business. New contractors committing aircraft to the CRAF after the closing of the Request for Proposal (RFP) may offer as an individual contractor, as a new TA or as an addition to an existing TA. A contractor who submits an offer after RFP closing and is awarded a contract is considered a non-entitled contractor until such time as the next quarterly recalculation of MVP is completed. Prior to recalculation, the contractor will be considered for expansion business only if no acceptable offers are received from entitled contractors. If more than one non-entitled contractor offers on an expansion requirement, award will be made to the contractor who has committed the most aircraft in wide body equivalents to the CRAF. Recalculated entitlement percentages shall be utilized for expansion awards only. The Contracting Officer will attempt to make awards commensurate to every contractor's entitlement each month; however, the Government is not obligated to ensure individual contractors/TAs meet or exceed their entitlement each month. Expansion entitlement not received in one month may not be carried over to a future month.

c. Task Orders. The Government will request and contractors shall submit offers for expansion airlift electronically, telephonically, or by telefax. An offer submitted by a contractor is considered a firm offer that, when accepted by the Government, becomes binding. Issuance of a task order (DD Form 1155) serves as Government acceptance of the contractor's offer. Task orders shall set forth (1) the services being ordered, (2) performance date, (3) price, (4) fund cite, and (5) any other pertinent information. An executed copy of each task order will be provided to the Contractor.

**20. AWARDING EXPANSION AIRLIFT FOR OUTSIZED CARGO SERVICE OR SERVICE INTO RESTRICTED AREAS OR REMOTE LOCATIONS**

a. The Government may from time to time during the period of performance of this contract, have requirements for outsized cargo services (as described in Attachment 1, PWS, Section 1 paragraph 1.3.16. and 1.3.17.) or service into areas where the operations of US-certificated carriers are restricted. These requirements include airlift services not currently available directly from US certificated contractor due to the absence of US certificated aircraft with the requisite capacity. With the express approval of the contracting officer, the contractor may perform these services by subcontracting to a foreign contractor. The foreign contractor must be DOD-approved pursuant to 32 CFR 861 prior to submission of offer (reference Section L, paragraph 8(b)(11)).

b. The process for award of expansion airlift for outsized cargo will be as follows:

(1) Requirements will be competed on a mission-by-mission basis at the time specific routes and dates become available. Interested contractors will propose specific type(s) of aircraft, and an all inclusive trip price. Reference Section B, paragraph 3e(4).

(2) Award of the mission or a group of missions will be made to the DOD approved contractor with the lowest priced acceptable offer in response to the Government's request for offers. Factors other than lowest total trip price used to determine the acceptability of an offer include timeliness of submission, type and weight capacity of aircraft offered, contractor reliability and violation status, and date of availability.

(3) If only one offer is received, the price will be determined fair and reasonable prior to award.

c. The process for award of expansion airlift for service into areas when the operations of US-certificated carriers are restricted will be as follows:

(1) Contractor agrees to perform service into the following locations (additional locations may be added as required):

- a. ORBI – Baghdad
- b. ORBD – Ballad
- c. ORAA – Al Asad
- d. ORAT – Al Taqaddum
- e. ORSH – Al Sahra

Specific missions may be requested on a daily basis. Reference Section B, paragraph 3e(4).

(2) Award of the mission will be made to the DOD approved contractor with the lowest priced acceptable offer in response to the Government's request for offers. Factors other than lowest total trip price used to determine the acceptability of an offer include timeliness of submission, type and weight capacity of aircraft offered, contractor reliability and violation status, and date of availability.

(3) If only one offer is received, the price will be determined fair and reasonable prior to award.

d. Task Orders. The Government will request and contractors shall submit offers electronically, telephonically, or by fax. An offer submitted by a contractor is considered a firm offer that, when accepted by the Government, becomes binding. Issuance of a task order (DD Form 1155) serves as Government acceptance of the contractor's offer. Task orders shall set forth (1) the services being ordered, (2) performance date, (3) price, (4) fund cite, and (5) any other pertinent information. An executed copy of each task order will be provided to the contractor. Reference Section G, paragraph 2a.

e. Terms and conditions of this contract that will **not** apply are:

- (1) Entitlement
- (2) USTRANSCOM Negotiated Uniform Rates and Rules.

- (3) Reimbursables listed in SLIN 0001AA (including fuel adjustments).
- (4) Section G, paragraph 5c concerning ferry certification.
- (5) Cancellation fees as defined in paragraph 17. Trip Cancellation of this section.

f. Remote Locations. For a mission flying into a remote location where ground handling equipment is not available, the mission may be analyzed to compare the cost of a U.S. Flag carrier landing at another nearby airfield which has ground handling equipment and trucking the cargo to the remote location or purchasing an aircraft equipped with a crane and/or mechanized loading system (i.e. AN-124) and flying directly into the remote location.

**21. TRANSFARS 5552.204-9000 NOTIFICATION OF GOVERNMENT SECURITY ACTIVITY AND VISITOR GROUP SECURITY AGREEMENTS (APRIL 2007)**

This contract contains a DD Form 254, DOD Contract Security Classification Specification, and requires performance at a government location in the U.S. or overseas. Prior to beginning operations involving classified information on an installation identified on the DD Form 254, the contractor shall take the following actions:

(a) At least thirty days prior to beginning operations, notify the security police activity shown in the distribution block of the DD Form 254 as to:

- (1) The name, address, and telephone number of this contract company's representative and designated alternate in the U.S. or overseas area, as appropriate;
- (2) The contract number and military contracting command;
- (3) The highest classification category of defense information to which contractor employees will have access which must coincide with the level of classification granted to the company and cage code located in the Joint Personnel Adjudication System (JPAS);
- (4) The installations in the U.S. (in overseas areas, identify only the APO number(s)) where the contract work will be performed;
- (5) The date contractor operations will begin on base in the U.S. or in the overseas area;
- (6) The estimated completion date of operations on base in the U.S. or in the overseas area; and,
- (7) Any changes to information previously provided under this clause.

This requirement is in addition to visit request procedures contained in DOD 5220.22-M, National Industrial Security Program Operating Manual.

(b) Prior to beginning operations involving classified information on an installation identified on the DD Form 254 where the contractor is not required to have a facility security clearance, the contractor shall enter into a Visitor Group Security Agreement (or understanding) with the installation commander to ensure that the contractor's security procedures are properly integrated with those of the installation. As a minimum, the agreement shall identify the security actions that will be performed:

- (1) By the installation for the contractor, such as providing storage and classified reproduction facilities, guard services, security forms, security inspections under DOD 5220.22-M, classified mail services, security badges, visitor control, and investigating security incidents; and
- (2) Jointly by the contractor and the installation, such as packaging and addressing classified transmittals, security checks, internal security controls, and implementing emergency procedures to protect classified material.

**22. TRANSFARS 5552.223-9001 HEALTH AND SAFETY ON GOVERNMENT INSTALLATIONS (APRIL 2007)**

(a) In performing work under this contract on a Government installation, the contractor shall:

- (1) Comply with the specific health and safety requirements established by this contract;
- (2) Comply with the health and safety rules of the Government installation that concern related activities not directly addressed in this contract;
- (3) Take all reasonable steps and precautions to prevent accidents and preserve the health and safety of contractor and Government personnel performing or in any way coming in contact with the performance of this contract; and
- (4) Take such additional immediate precautions as the contracting officer may reasonably require for health and safety purposes.

(b) The contracting officer may, by written order, direct Air Force Occupational safety and Health (AFOSH) Standards and/or health/safety standards as may be required in the performance of this contract and any adjustments resulting from such direction will be in accordance with the Changes clause of this contract.

(c) Any violation of these health and safety rules and requirements, unless promptly corrected as directed by the contracting officer, shall be grounds for termination of this contract in accordance with the Default clause of this contract.

**23. TRANSFARS 5552.247-9000 AIR SAFETY (APRIL 2007)**

(a) Contractor is obligated to comply with generally accepted standards of airmanship, training, and maintenance practices and procedures. Contractor must also satisfy Department of Defense (DOD) quality and safety requirements as described in 32 CFR Part 861, Section 861.4. In addition, contractor shall comply with all provisions of applicable statutes, tenders of service, and contract terms as such may affect flight safety, as well as with all applicable Federal Aviation Administration (FAA) Regulations, Airworthiness Directives, Orders, rules, and standards promulgated under the Federal Aviation Act of 1958, as amended. Compliance with published standards may not, standing alone, constitute compliance with generally accepted standards of airmanship, training, or maintenance.

(b) The cleanliness and orderliness of an aircraft, including the visible components and surfaces thereof affect the ability to inspect an aircraft, may be valid indicators of the overall maintenance level of an aircraft, and may have a direct effect on the security and confidence of passengers. Therefore, contractor's failure to keep and maintain all such components and surfaces of the aircraft used in performance of this contract clean, orderly, and in good state of repair may be deemed a failure to comply with generally accepted standards of maintenance to the extent the failure goes beyond mere cosmetic or housekeeping deficiencies and relates in some manner to confidence in the safety, maintenance, or airworthiness of the aircraft.

(c) Should the government determine that any of the following conditions exist, it may suspend or place in temporary nonuse status contractor's further performance of airlift transportation services for the DOD:

- (1) Contractor's failure to meet any of the obligations imposed by the preceding two paragraphs.
- (2) Involvement of one of contractor's aircraft in a serious or fatal accident, incident, or operational occurrence (regardless of whether or not such aircraft is being used in the performance of this contract).
- (3) Any other condition that affects the safe operation of contractor's flights hereunder.

(d) Such suspension shall be accomplished pursuant to the Department of Defense Commercial Air Transportation Quality and Safety Review Program (32 CFR Part 861), which is hereby incorporated in this contract by reference, or any procedures that supersede same which may be adopted by the Commander (United States Transportation

Command) from time to time. The suspension procedures, including the temporary nonuse, reinstatement and appeals processes, set out therein, are binding, final, and conclusive. In no event shall suspension or temporary nonuse proceedings, regardless of outcome, give rise to any liability on the part of the government.

(e) Suspension or temporary nonuse hereunder resulting in unavailability of contractor aircraft to perform service under this contract shall be treated as failure to maintain authorization to engage in air transportation under the clause of the contract "Requirement for Authorization to Engage in Air Transportation."

**24. TRANSFARS 5552.247-9001 REQUIREMENT FOR AUTHORIZATION TO ENGAGE IN AIR TRANSPORTATION (AUG 2007)**

(a) This contract is conditioned upon the Contractor (if the contractor is a team arrangement, applies to each team member) being an air carrier and holding a Certificate of Public Convenience and Necessity issued under Section 401 of the Federal Aviation Act (FAA of 1958, as amended), or otherwise authorized by the Department of Transportation (DOT) to engage in direct air transportation services, holding an Air Carrier's Operating Certificate issued by the FAA under Part 121 of the Federal Aviation Regulations (14 CFR 121) for airlift operated by the offeror, and participating in the CRAF, if applicable. Furthermore, the Contractor shall not be in a suspension or temporary nonuse status in accordance with clause 5552.247-9000, "AIR SAFETY."

(b) If at any time during the performance period of this contract the contractor is not in compliance with the requirements of paragraph (a) above, including, but not limited to, instances when the certificate demonstrating compliance with paragraph a above is (i) suspended by the pertinent regulatory body for any period of time even though the effect of the suspension is stayed pending review by a court of competent jurisdiction, (ii) canceled or revoked in its entirety by the pertinent regulatory body even though the effect of the cancellation or revocation is stayed pending review by a court of competent jurisdiction, or (iii) such certificate or interim operating authority has expired and has not been renewed, then the contracting officer may elect any one or a combination of the following courses of action:

(1) Suspend the contractor from further performance of all or any part of this contract until such time as the suspension/temporary nonuse imposed by the pertinent regulatory body shall have expired or until such time as the suspension, temporary nonuse, cancellation, or revocation shall have been finally set aside, removed, or otherwise terminated. The period of suspension of this contract will begin at the time that notice thereof is given by the contracting officer to the contractor's designee named in accordance with paragraph 2 of Section G of this contract. All flights, which were scheduled to be flown during the time any such suspension is in effect, will be canceled. A unilateral modification reflecting the cancellation and reducing the government's obligation accordingly will be issued by the contracting officer at the termination of the period during which this contract is suspended or after the expiration of the period of performance of this contract. Any such cancellation is not for the convenience of the government and is not a termination within the meaning of clause 52.249-2, "Termination for Convenience of the Government (Fixed-Price)." Such cancellation will be accomplished at no cost to either party, and the substitute service provisions of this contract will not apply to such canceled flights.

(2) Exercise the government's rights under the clause 5552.247-9002, "Contractor's Failure to Provide Service."

(3) Terminate this contract in whole or in part under the procedures of the clause entitled "Default." If this contract is terminated for default pursuant to paragraph b, and if it is subsequently determined that termination for default is not appropriate, this contract shall then be considered to have been canceled pursuant to subparagraph b(4) below.

(4) Cancel this contract in whole or in part. Any such cancellation will be accomplished by the issuance of a unilateral modification and will not be a termination under the provisions of clause 52.249-2, "Termination for Convenience of the Government (Fixed-Price)," and neither party will be liable to the other party for costs incurred as a result of such cancellation.

(c) If at any time an air carrier ceases operations or surrenders their operating certificate to the Federal Aviation Administration (FAA), the air carrier is required to immediately notify the Contracting Officer the next business day and the DOD Commercial Airlift Division at (618) 229-4801, as well as in writing to HQ AMC/A3B, 402 Scott Drive,



Unit 3A1 Scott AFB IL 62225-5302, stating the circumstances for ceasing operations and/or surrendering their operating certificate.

**25. TRANSFARS 5552.242-9000 COMMON ACCESS CARDS (CACs) FOR CONTRACTOR PERSONNEL (AUG 2008)**

(a) When contractor performance is required on government installation(s)/location(s), contractors shall ensure Common Access Cards (CACs) are obtained by all contract or subcontract employees who meet one or both of the following criteria:

(1) Require long-term logical access to Department of Defense computer networks and systems in either:

(i) the unclassified environment; or

(ii) the classified environment where authorized by governing security directives.

(2) Perform work on a long-term basis, which requires the use of a CAC for installation entry control or physical access to facilities and buildings.

(b) Contractors and their employees shall use the following procedures to obtain CACs:

(1) Contractors shall provide a listing of their employees that will require a CAC to the contracting officer. The listing will contain the following information in order for a CAC application to be created in the Contractor Verification System (CVS): last, middle, and first names; Social Security Number; Date of Birth; email address; the contract number; and the contract end date. The contracting officer will provide a copy of the list to the government representative in the local organization designated to authorize issuance of contractor CACs (i.e., Trusted Agent (TA)). The TA will then create a CAC application in the Contractor Verification System (CVS.)

(2) Once the TA has created the CAC application, a temporary login/password will be generated in CVS. The TA will notify each contractor employee when his/her application is created and will securely distribute the login/password to that contractor employee. Each contractor employee will then enter the CVS web site using the temporary login/password and complete the CAC application and submit it back to the TA.

(3) If contractor employees will not require access to classified information, each contractor employee will be required to complete either the Questionnaire for Non-Sensitive Positions (SF85), located at [www.opm.gov/forms/pdf\\_fill/SF85.pdf](http://www.opm.gov/forms/pdf_fill/SF85.pdf), or the Questionnaire for Public Trust Positions (SF85P) and submit fingerprint cards (FD-258) to the USTRANSCOM contracting officer who will verify each employee and then forward the documents to the Security Services Center for processing. The questionnaires and fingerprint cards will be forwarded by the Security Services Center personnel to OPM who will conduct a National Agency Check with written Inquiries (NACI) background investigation. Before the TA approves the CAC application in CVS, the TA must verify that a background investigation has either been opened or completed by OPM, or adjudicated by the Air Force Central Adjudication Facility (AFCAF), as shown in the Joint Personnel Adjudication System (JPAS).

(4) If contractor employees will require access to classified information, the contractor's company Facility Security Officer processes the Questionnaire for National Security Positions (SF86) and the fingerprint cards (FD-258) and submits them directly to the Defense Industrial Security Clearance Office (DISCO). Before the TA approves the CAC application in CVS, the TA must verify that a background investigation has been either opened or completed by OPM, or adjudicated by DISCO, as shown in JPAS.

(5) Once the TA has approved the CAC application, the TA will inform the contractor employee to proceed to the nearest CAC issuance workstation (usually located within the local Military Personnel Flight (MPF)) with two forms of picture identification. CAC issuance workstation personnel will then issue the CAC.

(c) While visiting or performing work on government installation(s)/location(s), contractor employees shall wear or prominently display the CAC as required by the governing local policy.



(d) During the performance period of the contract, the contractor, or contractor employee as appropriate, shall:

(1) Within 7 working days of any changes to the listing of the contract personnel authorized a CAC, provide an updated listing to the contracting officer who will provide the updated listing to the TA (who will create new CAC applications or revoke those for employees no longer performing on the contract as appropriate);

(2) As part of security out-processing, or when no longer performing on the specific contract for which the CAC was approved, return their CAC to either their TA, the USTRANSCOM Security Services Center personnel; or to a designated USTRANSCOM representative.

(3) Report lost or stolen CACs immediately to the TA, the USTRANSCOM Security Services Center, or to a designated USTRANSCOM representative.

(e) Within 7 working days following completion/termination of the contract, return all CACs issued to contractor employees to the TA, the USTRANSCOM Security Services Center, or to a designated USTRANSCOM representative.

(f) Failure to comply with these requirements may result in withholding of final payment.

(g) For OCONUS contracts, in addition to the above procedures, contractor employees requiring a Geneva Convention category on their CAC will be required to complete DD Form 1172-2, Application for Department of Defense Common Access Card DEERS Enrollment. This form shall be submitted to/approved by the contracting officer and then be presented to the CAC issuance workstation personnel in conjunction with the CVS application for CAC issuance.

## **26. CONTRACTS TO BE PERFORMED IN JAPAN**

The Status of Forces Agreement between the United States and Japan (SOFA) governs the rights and obligations of the United States armed forces in Japan. Unless a contractor is present in Japan solely to perform under a contract with the United States for the sole benefit of the United States armed forces in Japan and is accorded privileges under SOFA Article XIV, it and its employees shall be subject to all the laws and regulations of Japan. Certain contractor employees and their dependents not accorded privileges under SOFA Article XIV may be accorded privileges under SOFA Article I(b). Dependents of contractors or of contractor employees who receive SOFA Article XIV status do not receive status under SOFA Article XIV or SOFA Article I(b). The Contractor shall comply with the instruction of the Contracting Officer concerning the entry of its employees, equipment, and supplies into Japan, and shall comply with all applicable Japanese laws and regulations as well United States Forces Japan (USFJ) and USFJ component policies and regulations during the performance of this contract.

## **27. SOFA ARTICLE XIV STATUS**

(a) Awardee may apply for Article XIV status under the United States – Japan Status of Forces Agreement (SOFA). Persons, including corporations organized under the laws of the United States, and their employees who are ordinarily resident in the United States and whose presence in Japan is solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces may acquire privileged status under SOFA Article XIV. Such contractors and contractor employees are eligible for agency privileges and benefits under the SOFA but otherwise remain subject to the laws and regulations of Japan. Neither SOFA Article XIV nor SOFA Article I(b) status and privileges extend to dependents of SOFA Article XIV contractors or contractor employees.

(b) Procedures.

(1) Formal application for SOFA Article XIV status shall be made to HQ USFJ only after the contract has been awarded and the contractor's place of operation in Japan has been determined.

(2) A contractor seeking SOFA Article XIV status for itself and its employees shall submit the following to the Contracting Officer as part of its offer:

(i) Proof that the contractor is a person ordinarily resident in the United States or a corporation organized under the laws of the United States and that its presence in Japan is solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces; and

(ii) Proof that the contractor's employees are persons ordinarily resident in the United States and that their presence in Japan is solely for the purpose of performing work under contracts with the United States for the benefit of the United States armed forces.

(3) The Contracting Officer shall make the initial determination whether the contractor qualifies for SOFA Article XIV status. Upon a determination of qualification, the Contracting Officer shall forward a request for designation to Commander, U.S. Forces Japan, ATTN: USFJ/J5, Unit 5068, APO AP 96328. The request shall include the items requested in subparagraph (b)(2), a full explanation of the necessity of using a United States contractor consistent with DFARS PGI 225.74, and relevant documentation.

(4) HQ USFJ shall make the final determination on the contractor's SOFA Article XIV status upon consultation with the Government of Japan.

(5) Upon receipt of HQ USFJ approval, the Contracting Officer shall issue Letters of Identification indicating SOFA Article XIV status has been granted to the contractor and contractor employees.

(6) Once a contractor has been designated under SOFA Article XIV, it is not necessary that it be re-designated if a follow-on contract is awarded to that contractor; provided the new contract does not involve a material change from the work under which the SOFA Article XIV designation was originally granted and there is no significant delay between completion of the existing contract and initiation of performance under the follow-on contract.

(c) SOFA Article XIV privileges and benefits. In accordance with SOFA Article XIV, paragraphs 3 through 8, upon certification by appropriate United States authorities as to their identity, such persons and their employees shall be accorded the following benefits of the SOFA. *Note: Privileges and benefits afforded under SOFA Article XIV do not extend to dependents/family members.*

(1) Access to and movement between facilities and areas in use by the United States armed forces and between such facilities and areas and the ports or airports of Japan as provided for in SOFA Article V, paragraph 2;

(2) Entry into Japan and exemption from Japanese laws and regulations on the registration and control of aliens as provided for in SOFA Article IX;

(3) Exemption from customs duties and other such charges on furniture and household goods for private use imported by person when they first arrive to work in Japan, vehicles and parts imported for private use, and reasonable quantities of clothing and household goods for everyday private use which are mailed into Japan through United States military post offices as provided for in SOFA Article XI, paragraph 3;

(4) If authorized by the installation commander or designee, the right to use Navy exchanges, post exchanges, base exchanges, commissaries, messes, social clubs, theaters, newspapers and other non-appropriated fund organizations regulated by United States military authorities as provided for in SOFA Article XV;

(5) The transmission into or outside of Japan of United States dollar or dollar instruments realized as a result of contract performance as provided for in SOFA Article XIX, paragraph 2;

(6) The use of postal facilities as provided for in SOFA Article XXI;

(7) Exemption from the laws and regulations of Japan with respect to terms and conditions of employment except that such exemption shall not apply to the employment of local nationals in Japan;

(8) Exemption from taxes and similar charges of Japan on depreciable assets except houses, held, used, or transferred for the execution of contracts referenced in subparagraph (a);

(9) Exemption from taxation in Japan on the holding, use transfer by death, or transfer to person or agencies entitled to tax exemption under the SOFA, of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided such exemption shall not apply to property held for the purpose of investment or the conduct of other business in Japan or to any intangible property registered in Japan. No exemption from taxes payable for the use of roads by private vehicles is provided under SOFA Article XIV;

(10) Exemption from income or corporation taxes of the Government of Japan or any other taxing agency in Japan on any income derived under a contract made in the United States with the Government of the United States in connection with the construction, maintenance or operation of any of the facilities or area covered by the SOFA. The provisions of this paragraph do not exempt such persons from payment of income or corporation taxes on income derived from Japanese sources;

(11) Japan authorities have the right to exercise jurisdiction over SOFA personnel in relation to offenses committed in Japan and punishable by the law of Japan. In those cases in which the Japanese authorities have the primary right to exercise jurisdiction but decide not to do so, the United States shall have the right to exercise such jurisdiction as is conferred on it by the law of the United States.

**28. SOFA ARTICLE I(b) STATUS (To be granted to subcontractor employees performing in Japan).**

(a) SOFA Article I(b) status. Individuals including, but not limited to, technical advisors, consultants, entertainers serving under contracts with the United States for the provision of services in support of U.S. armed forces in Japan, and whose presence is required in Japan to provide such services, may acquire SOFA status in Japan as part of the civilian component under Article I(b) of the SOFA. To qualify for SOFA status under SOFA Article I(b), such individuals must be:

(1) United States nationals,

(2) not ordinarily resident in Japan,

(3) present in Japan at the invitation of, and solely for the purpose of executing contracts with, the United States for the benefit of the United States armed forces, and

(4) not contractors or employees of a contractor whose presence in Japan is solely for the purpose of executing contracts within the definition of SOFA Article XIV.

(b) SOFA Article I(b) procedures. Contractor personnel must obtain a Letter of Identification from Contracting Officer to authorize entry into Japan under SOFA Article I(b) and to identify which Article I(b) privileges and benefits will be provided to each employee/dependent. Contractor shall, in writing, identify all contractor personnel and accompanying dependents eligible for SOFA Article I(b) status to the Contracting Officer.

(c) SOFA Article I(b) privileges and benefits. Persons granted authority to enter Japan under SOFA Article I(b) and their dependents (defined as spouse, children under 21, and, if dependent for over half their support upon an individual having SOFA Article I(b) status, parents and children over 21) shall be accorded the following benefits of the SOFA. These privileges are personal to the employee/dependent and to not inure to the employer. The employer must be legally present in Japan and authorized to perform the contractual duties in accordance with Japanese law.

(1) Access to and movement between facilities and areas in use by the United States armed forces and between such facilities and areas and the ports or airports of Japan as provided for in SOFA Article V, paragraph 2;

(2) Entry into Japan and exemption from Japanese laws and regulations on the registration and control of aliens as provided for in SOFA Article IX;

(3) Acceptance as valid by Japan, without a driving test or fee, a U.S. Forces, Japan Operator's Permit for Civilian Vehicle as provided for in SOFA Article X. Issuance of such permit shall be subject to applicable military regulation;

(4) Exemption from customs duties and other such charges on materials, supplies, and equipment which are to be incorporated into articles or facilities used by the United States armed forces furniture, household goods for private use imported by person when they first arrive to work in Japan, vehicles and parts imported for private use, and reasonable quantities of clothing and household goods for everyday private use which are mailed into Japan through United States military post offices as provided for in SOFA Article XI, paragraphs 2 and 3;

(5) Exemption from the laws and regulations of Japan with respect to terms and conditions of employment as provided for in SOFA Article XII, paragraph 7, except that such exemption shall not apply to the employment of local nationals in Japan;

(6) Exemption from Japanese taxes to the Government of Japan or to any other taxing agency in Japan on income received as a result of their service with the United States armed forces as provided for in SOFA Article XIII. The provisions of Article XIII do not exempt such persons from payment of Japanese taxes on income derived from Japanese sources;

(7) If authorized by the installation commander or designee, the right to use Navy exchanges, post exchanges, base exchanges, commissaries, messes, social clubs, theaters, newspapers and other non-appropriated fund organizations regulated by United States military authorities as provided for in SOFA Article XV;

(8) The transmission into or outside of Japan of United States dollar or dollar instruments realized as a result of contract performance as provided for in SOFA Article XIX, paragraph 2;

(9) The use of postal facilities as provided for in SOFA Article XXI;

(10) Exemption from taxation in Japan on the holding, use transfer by death, or transfer to person or agencies entitled to tax exemption under the SOFA, of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided such exemption shall not apply to property held for the purpose of investment or the conduct of other business in Japan or to any intangible property registered in Japan.

(11) Japan authorities have the right to exercise jurisdiction over SOFA personnel in relation to offenses committed in Japan and punishable by the law of Japan. In those cases in which the Japanese authorities have the primary right to exercise jurisdiction but decide not to do so, the United States shall have the right to exercise such jurisdiction as is conferred on it by the law of the United States.

## **29. LOGISTIC SUPPORT IN JAPAN**

Contractor, contractor personnel, and in the case of personnel granted SOFA Article I(b) status, dependents, shall, subject to availability as determined by the installation commander or designee, be provided logistic support including, but not limited to, the items below:

(a) Navy, Base or Post Exchange, including exchange service stations, theaters, and commissary (Article I(b) personnel/dependents and Article XIV personnel only);

(b) Laundry and dry cleaning on a fee for service basis;

(c) Military banking facilities (Article I(b) personnel/dependents and Article XIV personnel only);

(d) Transient billeting facilities on a reimbursable basis;

(e) Open mess (club) membership, as determined by each respective club (Article I(b) personnel/dependents and Article XIV personnel only);

- (f) Casualty assistance (mortuary services) on a reimbursable basis;
- (g) Routine medical care on a reimbursable basis for U.S. citizens and emergency medical care on a reimbursable basis for non-U.S. citizens;
- (h) Dental care (limited to relief of emergencies) on a reimbursable basis;
- (i) Department of Defense Dependent Schools on a space-available and tuition-paying basis;
- (j) Postal support, as authorized by military postal regulations (Article I(b) personnel/dependents and Article XIV personnel only);
- (k) Local recreation services on a space-available basis;
- (l) Issuance of U.S. Forces, Japan Operator's Permit (Article I(b) personnel/dependents and Article XIV personnel only);
- (m) Issuance of vehicle license plates (Article I(b) personnel/dependents and Article XIV personnel only).

### **30. PROPOSAL PREPARATION USING THE UNIFORM SYSTEM OF ACCOUNTS**

The contractor shall prepare the proposal for the initial contract and modifications thereto using accounting practices that:

- (i) Comply with pronouncements of the Uniform System of Accounts (USAR) reported to Department of Transportation (DOT) IAW 14 Code of Federal Regulations (CFR) 241; USTRANSOM ratemaking procedures contained in carrier cost package instructions; and USTRANSCOM Roundtrip (S1)/One-way (S2) monthly mileage fuel reports and
- (ii) Are consistent with the contractor's written and established practices for measuring, assigning and allocating costs.

### **31. USE OF COST ACCOUNTING METHOD**

The contractor shall disclose, in writing, its established accounting practices for measuring, assigning and allocating costs to contracts for which CAS has been waived, and to consistently use those disclosed practices to prepare proposal(s).

### **32. DISCLOSURE OF CHANGES IN COST ACCOUNTING PRACTICES**

The contractor shall provide advance disclosure to the Government of any planned cost accounting practice changes not less than 60 days prior to implementation of the change.

### **33. ACCESS TO CONTRACTOR RECORDS**

The contractor shall provide the Contracting Officer and authorized representative access to all relevant contractor records, including but not limited to the accounting practices and cost records in use at the time of the contract award and at the time of modifications thereto.

### **34. 10 U.S.C. 2324(c) SPECIFIC COSTS NOT ALLOWABLE**

The following costs are not allowable under a covered contract:

- (a) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).
- (b) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress, a State legislature, or a legislative body of a political subdivision of a State.
- (c) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of a false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing a false certification).
- (d) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable provisions of the Federal Acquisition Regulation.
- (e) Costs of membership in any social, dining, or country club or organization.
- (f) Costs of alcoholic beverages.
- (g) Contributions or donations, regardless of the recipient.
- (h) Costs of advertising designed to promote the contractor or its products.
- (i) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.
- (j) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.
- (k) Costs incurred in making any payment (commonly known as a "golden parachute payment") which is –
  - (1) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and
  - (2) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.
- (l) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.
- (m) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under the Federal Acquisition Regulation.
- (n) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States military facility in that country at the request of the government of that country.
- (o) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).
- (p) Costs of compensation of senior executives of contractors for a fiscal year, regardless of the contract funding source, to the extent that such compensation exceeds the benchmark compensation amount determined applicable for the fiscal year by the Administrator for Federal Procurement Policy under section 39 of the Office of Federal Procurement Policy Act (41 U.S.C. 435), as amended.

### 35. PRICE ADJUSTMENT FOR USE OF FAULTY PRICING DATA

The contract price may be adjusted if it is later found that the price was increased because the carrier used accounting practices that were in noncompliance with USAR provisions and USTRANSCOM Ratemaking instructions, or were inconsistent with the carrier's written and established practices. The amount of the adjustment shall be the difference between the carrier's negotiated rate using noncompliant cost accounting practices and the rate that would have been negotiated had the carrier used compliant cost accounting practices, multiplied by the number of miles awarded to the carrier. The Government shall be entitled to a credit or cash recovery (at the Government's option) for the amount of the increased price plus interest. The interest shall be computed from the date the payment was made by the Government until the date of repayment by the contractor. The interest rate shall be at the rate specified at 26 U.S.C. 6621(a)(2)

### 36. AI 25.3 COMPLIANCE WITH LAWS AND REGULATIONS (5 NOV 07) (APPLICABLE FOR ALL MISSIONS OPERATING IN IRAQ AND AFGHANISTAN)

The Contractor shall comply with, and shall ensure that its personnel and its subcontractors and subcontractor personnel at all tiers obey all existing and future U.S. and Host Nation laws, Federal or DoD regulations, and Central Command orders and directives applicable to personnel in Iraq and Afghanistan, including but not limited to USCENTCOM, Multi-National Force and Multi-National Corps fragmentary orders, instructions and directives.

Contractor employees performing in the USCENTCOM Area of Operations are under the jurisdiction of the Uniform Code of Military Justice (UCMJ). Under the UCMJ, U.S. commanders may discipline contractor employees for criminal offenses. Contractors shall advise the Contracting Officer if they suspect an employee has committed an offense. Contractors shall not permit an employee suspected of a serious offense or violating the Rules for the Use of Force to depart Iraq or Afghanistan without approval from the senior U.S. commander in the country.

**PART II - CONTRACT CLAUSES**

**SECTION I - CONTRACT CLAUSES**

**1. 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) FAR**

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 addressed electronically at this address: <http://farsite.hill.af.mil/>

2. The following clauses are incorporated by reference:

| <u>FAR<br/>NUMBER</u> | <u>CLAUSE TITLE</u>   | <u>DATE</u>          |
|-----------------------|---|----------------------|
| 52.202-1              | DEFINITIONS   | JUL 2004             |
| 52.203-3              | GRATUITIES  | APR 1984             |
| 52.203-5              | COVENANT AGAINST CONTINGENT FEES  | APR 1984             |
| 52.203-6              | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE<br>GOVERNMENT  | SEP 2006             |
| 52.203-7              | ANTI-KICKBACK PROCEDURES  | JUL 1995             |
| 52.203-8              | CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS<br>FOR ILLEGAL OR IMPROPER ACTIVITY   | JAN 1997             |
| 52.203-10             | PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER<br>ACTIVITY   | JAN 1997             |
| 52.203-12             | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN<br>FEDERAL TRANSACTIONS   | SEP 2007             |
| 52.204-2              | SECURITY REQUIREMENTS   | AUG 1996             |
| 52.209-6              | PROTECTING THE GOVERNMENT'S INTEREST WHEN<br>SUBCONTRACTING WITH CONTRACTORS DEBARRED,<br>SUSPENDED, OR PROPOSED FOR DEBARMENT  | SEP 2006             |
| 52.215-2              | AUDIT AND RECORDS - NEGOTIATION   | JUN 1999             |
| 52.215-8              | ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT  | OCT 1997             |
| 52.215-10             | PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA  | OCT 1997             |
| 52.215-12             | SUBCONTRACTOR COST OR PRICING DATA  | OCT 1997             |
| 52.215-15             | PENSION ADJUSTMENTS AND ASSET REVERSIONS  | OCT 2004             |
| 52.215-18             | REVERSION OR ADJUSTMENT OF PLANS FOR<br>POST RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS  | JUL 2005             |
| 52.215-19             | NOTIFICATION OF OWNERSHIP CHANGES   | OCT 1997             |
| 52.216-18             | ORDERING<br>The blank in para (a), line 5 is completed as follows:<br><u>1 Oct 08 through 30 Sep 09</u>   | OCT 1995             |
| 52.216-19             | ORDER LIMITATIONS<br>The blanks are completed as follows:<br>Para (a), line 2 <u>\$1,250</u> (least amount of MOBREP funding)<br>Para (b)(1) <u>\$4,000,000</u> (max single route value)<br>Para (b)(2) <u>\$150,000,000</u> (max task order amount)<br>Para (b)(3) <u>5 days</u><br>Para (d), line 3 <u>5 days</u> | OCT 1995             |
| 52.216-22             | INDEFINITE QUANTITY<br>The blank in para (d), last line is<br>completed as follows: <u>30 Sep 09</u>  | OCT 1995             |
| 52.219-8              | UTILIZATION OF SMALL BUSINESS CONCERNS  | MAY 2004             |
| 52.219-9              | SMALL BUSINESS SUBCONTRACTING PLAN<br>ALT II  | APR 2008<br>OCT 2001 |



| <u>FAR<br/>NUMBER</u> | <u>CLAUSE TITLE</u>   | <u>DATE</u> |
|-----------------------|---|-------------|
| 52.219-16             | LIQUIDATED DAMAGES – SUBCONTRACTING PLAN  | JAN 1999    |
| 52.222-1              | NOTICE TO THE GOVERNMENT OF LABOR DISPUTES  | FEB 1997    |
| 52.222-3              | CONVICT LABOR   | JUN 2003    |
| 52.222-21             | PROHIBITION OF SEGREGATED FACILITIES  | FEB 1999    |
| 52.222-26             | EQUAL OPPORTUNITY   | MAR 2007    |
| 52.222-29             | NOTIFICATION OF VISA DENIAL   | JUN 2003    |
| 52.222-35             | EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS,<br>VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE<br>VETERANS   | SEP 2006    |
| 52.222-36             | AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES  | JUN 1998    |
| 52.222-37             | EMPLOYMENT REPORTS ON SPECIAL DISABLED<br>VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER<br>ELIGIBLE VETERANS   | SEP 2006    |
| 52.222-41             | SERVICE CONTRACT ACT OF 1965<br>NOTE: The applicable wage determinations are included as<br>Attachment 5a and 5b.   | NOV 2007    |
| 52.222-50             | COMBATING TRAFFICKING IN PERSONS  | AUG 2007    |
| 52.223-6              | DRUG-FREE WORKPLACE   | MAY 2001    |
| 52.224-1              | PRIVACY ACT NOTIFICATION  | APR 1984    |
| 52.224-2              | PRIVACY ACT   | APR 1984    |
| 52.225-13             | RESTRICTIONS ON CERTAIN FOREIGN PURCHASES   | JUN 2008    |
| 52.225-19             | CONTRACTOR PERSONNEL IN A DESIGNATED OPERATIONAL AREA<br>OR SUPPORTING A DIPLOMATIC OR CONSULAR MISSION OUTSIDE<br>THE UNITED STATES  | MAR 2008    |
| 52.226-1              | UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED<br>ECONOMIC ENTERPRISES  | JUN 2000    |
| 52.227-1              | AUTHORIZATION AND CONSENT   | DEC 2007    |
| 52.227-2              | NOTICE AND ASSISTANCE REGARDING PATENT AND<br>COPYRIGHT INFRINGEMENT  | DEC 2007    |
| 52.227-6              | ROYALTY INFORMATION   | APR 1984    |
| 52.228-3              | WORKERS' COMPENSATION INSURANCE<br>(DEFENSE BASE ACT)   | APR 1984    |
| 52.228-4              | WORKERS' COMPENSATION AND WAR-HAZARD<br>INSURANCE OVERSEAS  | APR 1984    |
| 52.228-5              | INSURANCE--WORK ON A GOVERNMENT INSTALLATION  | JAN 1997    |
| 52.229-3              | FEDERAL, STATE, AND LOCAL TAXES   | APR 2003    |
| 52.229-6              | TAXES--FOREIGN FIXED-PRICE CONTRACTS  | JUN 2003    |
| 52.232-4              | PAYMENTS UNDER TRANSPORTATION CONTRACTS AND<br>TRANSPORTATION-RELATED SERVICES CONTRACTS  | APR 1984    |
| 52.232-8              | DISCOUNTS FOR PROMPT PAYMENT  | FEB 2002    |
| 52.232-9              | LIMITATION ON WITHHOLDING OF PAYMENTS   | APR 1984    |
| 52.232-11             | EXTRAS  | APR 1984    |
| 52.232-17             | INTEREST  | JUN 1996    |
| 52.232-18             | AVAILABILITY OF FUNDS   | APR 1984    |
| 52.232-23             | ASSIGNMENT OF CLAIMS  | JAN 1986    |
|                       | ALTERNATE I   | APR 1984    |
| 52.232-25             | PROMPT PAYMENT<br>Subparagraph (a)(.3)(iv)is changed to read: Description,<br>quantity, unit of measure, unit price, and extended price of<br>supplies delivered or services performed. (Note: For certain<br>CLINS, as specified, in the contract, the contractor shall<br>round invoiced amounts to the nearest whole dollar amount). | OCT 2003    |
| 52.232-33             | PAYMENT BY ELECTRONIC FUNDS TRANSFER (CCR)  | OCT 2003    |

| <u>FAR<br/>NUMBER</u> | <u>CLAUSE TITLE</u>  | <u>DATE</u> |
|-----------------------|--|-------------|
| 52.233-1              | DISPUTES   | JUL 2002    |
|                       | ALTERNATE I  | DEC 1991    |
| 52.233-3              | PROTEST AFTER AWARD  | AUG 1996    |
| 52.237-2              | PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT,<br>AND VEGETATION   | APR 1984    |
| 52.242-13             | BANKRUPTCY   | JUL 1995    |
| 52.243-1              | CHANGES--FIXED-PRICE   | AUG 1987    |
|                       | ALTERNATE IV   | APR 1984    |
| 52.244-6              | SUBCONTRACTS FOR COMMERCIAL ITEMS                                  | MAR 2007    |
| 52.245-1              | GOVERNMENT PROPERTY  | JUN 2007    |
| 52.245-9              | USE AND CHARGES  | JUN 2007    |
| 52.246-25             | LIMITATION OF LIABILITY - SERVICES                                 | FEB 1997    |
| 52.247-5              | FAMILIARIZATION WITH CONDITIONS                                    | APR 1984    |
| 52.247-12             | SUPERVISION, LABOR, OR MATERIALS                                   | APR 1984    |
| 52.247-21             | CONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR<br>PROPERTY DAMAGE | APR 1984    |
| 52.247-27             | CONTRACT NOT AFFECTED BY ORAL AGREEMENT                            | APR 1984    |
| 52.247-63             | PREFERENCE FOR U.S.-FLAG AIR CARRIERS                              | JUN 2003    |
| 52.248-1              | VALUE ENGINEERING  | FEB 2000    |
| 52.249-2              | TERMINATION FOR CONVENIENCE OF THE GOVERNMENT<br>(FIXED-PRICE)     | MAY 2004    |
| 52.249-8              | DEFAULT (FIXED-PRICE SUPPLY AND SERVICE), ALT I                    | APR 1984    |

**DEFENSE  
FAR SUP**

| <u>NUMBER</u> | <u>CLAUSE TITLE</u>   | <u>DATE</u> |
|---------------|---|-------------|
| 252.201-7000  | CONTRACTING OFFICER'S REPRESENTATIVE  | DEC 1991    |
| 252.203-7001  | PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER<br>DEFENSE-CONTRACT-RELATED FELONIES                                   | DEC 2004    |
| 252.203-7002  | DISPLAY OF DOD HOTLINE POSTER   | DEC 1991    |
| 252.204-7000  | DISCLOSURE OF INFORMATION   | DEC 1991    |
| 252.204-7003  | CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT  | APR 1992    |
| 252.204-7004  | ALTERNATE A, CENTRAL CONTRACTOR REGISTRATION  | SEP 2007    |
| 252.204-7005  | ORAL ATTESTATION OF SECURITY RESPONSIBILITIES   | NOV 2001    |
| 252.205-7000  | PROVISION OF INFORMATION TO COOPERATIVE<br>AGREEMENT HOLDERS  | DEC 1991    |
| 252.209-7004  | SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR<br>CONTROLLED BY THE GOVERNMENT OF A TERRORIST<br>COUNTRY                     | DEC 2006    |
| 252.215-7000  | PRICING ADJUSTMENTS   | DEC 1991    |
| 252.215-7002  | COST ESTIMATING SYSTEM REQUIREMENTS   | DEC 2006    |
| 252.219-7003  | SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS)  | APR 2007    |
| 252.222-7000  | RESTRICTIONS ON EMPLOYMENT OF PERSONNEL<br>The blank in para (a), line 2 is<br>completed as follows: <u>HAWAII/ALASKA</u> | MAR 2000    |
| 252.223-7002  | SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES  | MAY 1994    |
| 252.223-7003  | CHANGE IN PLACE OF PERFORMANCE--<br>AMMUNITIONS AND EXPLOSIVES  | DEC 1991    |
| 252.223-7004  | DRUG-FREE WORK FORCE  | SEP 1988    |
| 252.223-7006  | PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND<br>HAZARDOUS MATERIALS   | APR 1993    |
| 252.225-7031  | SECONDARY ARAB BOYCOTT OF ISRAEL  | JUN 2005    |

**DEFENSE  
FAR SUP  
NUMBER**

**CLAUSE TITLE**

**DATE**

|              |   |          |
|--------------|---|----------|
| 252.225-7042 | AUTHORIZATION TO PERFORM  | APR 2003 |
| 252.225-7043 | ANTITERRORISM/FORCE PROTECTION POLICY FOR DEFENSE<br>CONTRACTORS OUTSIDE THE UNITED STATES<br>The blank in paragraph (d) is completed as follows:<br><u>HQ AFSFC/SFPA</u> Commercial: (210) 925-7035/ | MAR 2006 |
| 252.231-7000 | SUPPLEMENTAL COST PRINCIPLES  | DEC 1991 |
| 252.243-7001 | PRICING OF CONTRACT MODIFICATIONS   | DEC 1991 |
| 252.243-7002 | REQUESTS FOR EQUITABLE ADJUSTMENT   | MAR 1998 |

**3. FAR 52.222.42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)**

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

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

| Employee Class                                   | Monetary Wage -- Fringe Benefits |
|--|----------------------------------|
| General Schedule: Gate Agent                     | GS-06 Step 1/\$16.80 per hour    |
| General Schedule: Lead Gate Agent                | GS-07 Step 1/\$18.67 per hour    |
| General Schedule: Supervisory Gate Agent         | GS-08 Step 1/\$20.67 per hour    |
| General Schedule: First Pilot                    | GS-11 Step 1/\$26.11 per hour    |
| General Schedule: Co-Pilot                       | GS-10 Step 1/\$23.77 per hour    |
| General Schedule: Flight Dispatcher              | GS-07 Step 1/\$17.64 per hour    |
| General Schedule: Second Officer/Flight Engineer | GS-09 Step 1/\$21.58 per hour    |

**4. FAR 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85-804 (APR 1984)**

a. "Contractor's principal officials," as used in this clause, means directors, officers, managers, superintendents, or other representatives supervising or directing--

- (1) All or substantially all of the Contractor's business;
- (2) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or
- (3) A separate and complete major industrial operation in connection with the performance of this contract.

b. Under Public Law 85-804 (50 U.S.C. 1431-1435) and Executive Order 10789, as amended, and regardless of any other provisions of this contract, the Government shall, subject to the limitations contained in the other paragraphs of this clause, indemnify the Contractor against--

- (1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death; personal injury; or loss of, damage to, or loss of use of property;
- (2) Loss of, damage to, or loss of use of Contractor property, excluding loss of profit; and
- (3) Loss of, damage to, or loss of use of Government property, excluding loss of profit.

c. This indemnification applies only to the extent that the claim, loss, or damage

- (1) arises out of or results from a risk defined in this contract as unusually hazardous or nuclear and
- (2) is not compensated for by insurance or otherwise.

Any such claim, loss, or damage, to the extent that it is within the deductible amounts of the Contractor's insurance, is not covered under this clause. If insurance coverage or other financial protection in effect on the date the approving official authorizes use of this clause is reduced, the Government's liability under this clause shall not increase as a result.

d. When the claim, loss, or damage is caused by willful misconduct or lack of good faith on the part of any of the Contractor's principal officials, the Contractor shall not be indemnified for--

- (1) Government claims against the Contractor (other than those arising through subrogation); or
- (2) Loss or damage affecting the Contractor's property.

e. With the Contracting Officer's prior written approval, the Contractor may, in any subcontract under this contract, indemnify the subcontractor against any risk defined in this contract as unusually hazardous or nuclear. This indemnification shall provide, between the Contractor and the subcontractor, the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and Government settlement or defense of claims as this clause provides. The Contracting Officer may also approve indemnification of subcontractors at any lower tier, under the same terms and conditions. The Government shall indemnify the Contractor against liability to subcontractors incurred under subcontract provisions approved by the Contracting Officer.

f. The rights and obligations of the parties under this clause shall survive this contract's termination, expiration, or completion. The Government shall make no payment under this clause unless the agency head determines that the amount is just and reasonable. The Government may pay the Contractor or subcontractors, or may directly pay parties to whom the Contractor or subcontractors may be liable.

g. The Contractor shall--

- (1) Promptly notify the Contracting Officer of any claim or action against, or any loss by, the Contractor or any subcontractors that may be reasonably expected to involve indemnification under this clause;
- (2) Immediately furnish to the Government copies of all pertinent papers the Contractor receives;
- (3) Furnish evidence or proof of any claim, loss, or damage covered by this clause in the manner and form the Government requires; and
- (4) Comply with the Government's directions and execute any authorizations required in connection with settlement or defense of claims or actions.

h. The Government may direct, control, or assist in settling or defending any claim or action that may involve indemnification under this clause.

## **5. DEFINITION OF UNUSUALLY HAZARDOUS RISK**

a. Definitions:

(1) "Civil Reserve Air Fleet (CRAF) Mission" means the provision of airlift services under this contract (1) ordered pursuant to authority available because of the activation of CRAF or (2) directed by Commander, United States Transportation Command (TCCC) or his successor for missions substantially similar to or in lieu of those ordered pursuant to formal CRAF activation.

(2) "Airlift Services" means all services (passenger, cargo, or medical evacuation) and anything the contractor is required to do in order to conduct or position the aircraft, personnel, supplies, and equipment for a flight and return. Airlift Services include ground related services supporting CRAF missions. Airlift Services do not include any services involving any persons or things which, at the time of the event, act, or omission giving rise to a claim, are directly supporting commercial business operations unrelated to a CRAF mission objective.

(3) "War risks" means risks of:

(a) War, invasion, acts of foreign enemies, hostilities (whether declared or not), civil war, rebellion, revolution, insurrection, martial law, military or usurped power, or attempt at usurpation of power.

(b) Any hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

(c) Strikes, riots, civil commotions, or labor disturbances related to occurrences under subparagraph (1) above.

(d) Any act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes and whether the loss or damage resulting there from is accidental or intentional, except for ransom or extortion demands

(e) Any malicious act or act of sabotage, vandalism, or other act intended to cause loss or damage.

(f) Confiscation, nationalization, seizure, restraint, detention, appropriation, requisition for title or use by or under the order of any Government (whether civil or military or de facto) or public or local authority.

(g) Hijacking or any unlawful seizure or wrongful exercise of control of the aircraft or crew (including any attempt at such seizure or control) made by any person or persons on board the aircraft or otherwise, acting without the consent of the insured.

(h) The discharge or detonation of a weapon or hazardous material while on the aircraft as cargo or in the personal baggage of any passenger.

b. For the purpose of the contract clause entitled "Indemnification Under Public Law 85-804 (APR 1984)," it is agreed that all war risks resulting from the provision of airlift services for a CRAF mission in accordance with the contract are unusually hazardous risks, and shall be indemnified to the extent that coverage for such risks is not reasonably available under Chapter 443 of the Federal Aviation Act or other insurance, because such insurance has been canceled, has applicable exclusions, or has been determined by the Government to be prohibitive in cost. The Government's liability to indemnify the contractor shall not exceed that amount for which the contractor commercially insures under its established policies of insurance, which are maintained by the FAA.

c. Indemnification of risks involving the operation of aircraft, as discussed above, is limited to claims or losses arising out of events, acts, or omissions involving the operation of an aircraft for airlift services for a CRAF mission, from the time that aircraft is withdrawn from the contractor's regular operations (commercial, DOD, or other activity unrelated to airlift services for a CRAF mission) until it is returned for regular operations. Indemnification with regard to other contractor personnel or property utilized or services rendered in support of CRAF missions is limited to claims or losses arising out of events, acts, or omissions occurring during the time the first prepositioning of personnel, supplies and equipment to support the first aircraft of the contractor used for airlift services for a CRAF mission is commenced until the timely removal, as determined by the Contracting Officer, of such personnel, supplies and equipment after the last such aircraft is returned for regular operations.

d. Indemnification is contingent upon the contractor maintaining, if available, non-premium insurance under Chapter 443 of the Federal Aviation Act and normal commercial insurance, as required by this contract or other competent authority. Indemnification for losses covered by a contractor self-insurance program shall only be on such terms as incorporated in this contract by the Contracting Officer in advance of such a loss.

**6. FAR 52.223-11 OZONE-DEPLETING SUBSTANCES (MAY 2001)**

(a) *Definition.* "Ozone-depleting substance," as used in this clause, means any substance the Environmental Protection Agency designates in 40 CFR Part 82 as--

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to hydrochlorofluorocarbons.

(b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, as follows:

**Warning**

Contains (or manufactured with, if applicable) \* \_\_\_\_\_, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.

\* The Contractor shall insert the name of the substance(s).

**7. 52.204-7, CENTRAL CONTRACTOR REGISTRATION, (APRIL 2008)**

(a) Definitions. As used in this clause—

"Central Contractor Registration (CCR) database" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System+4 (DUNS+4) number" means the DUNS number means the number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

"Registered in the CCR database" means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active". The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b)

(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) Via the internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

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

(g)

(1)

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

(A) Change the name in the CCR database;

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

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

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

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

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

## 8. LOSS OF USE SET RATE

a. In lieu of seeking actual damages for loss of use under the contract indemnification clause, FAR 52.250-1, (Section I para 4), the contractor elects to accept the Loss of Use Set Rate described below. The election to use the set rate is binding upon the contractor during the term of the contract for losses resulting from unusually hazardous or nuclear risk and subject to indemnification under Public Law 85-804.

b. The Loss of Use Set Rate shall be determined as follows:

(1) If the contractor insures commercially for loss of use, the contractor shall be paid the amount that would have been due from the insurer.

(2) If the contractor's commercial insurance does not include coverage for loss of use, loss of use is deemed to be the subject of a contractor self-insurance program. This is subject to P.L. 85-804 indemnification on the terms set forth in this clause. The loss of use set rate shall be determined using the following formula:

$$\text{utilization}^1 \times 500 \text{ mph} \times \text{ACL}^2 \times \text{adjusted USTRANSCOM uniform rate}^3 = \text{aircraft value per day}$$

c. The election to use the set rate versus claiming for actual losses is binding upon the contractor for incidents arising during the term of this contract. The set rate is only available for temporary loss of use of the aircraft. It anticipates the contractor will act with due diligence in bringing the aircraft back on line. Loss of Use, beyond 30 days, may be approved by the Contracting Officer subject to determining that the contractor's plan for return of the aircraft is fair and reasonable. If the Government so determines, it may total out the loss in lieu of paying the set rate. The set rate does not preclude claim for, or payment of, other damages subject to indemnification; e.g., cost of repair.

<sup>1</sup> Airborne hours per day. If loss occurs during a Civil Reserve Air Fleet Mission ordered pursuant to authority available because of the activation of CRAF, the hours of utilization will be equal to the guaranteed utilization specified in Part I, Section B. If loss occurs during a Civil Reserve Air Fleet Mission directed by the Commander, Air Mobility Command, or his successor, for a mission substantially similar to or in lieu of those ordered pursuant to formal CRAF activation, the hours of utilization will be the contractor's average daily utilization based on aircraft flight logs for the aircraft type during the 12 months prior to the beginning of the period of performance of the contract.

<sup>2</sup> USTRANSCOM allowable cabin load per Uniform Rates and Rules.

<sup>3</sup> USTRANSCOM uniform rate less costs not incurred (e.g., fuel, maintenance) and less profit.



d. The contractor shall notify the administrative Contracting Officer at USTRANSCOM/TCAQ-C of the loss, request payment, and provide pertinent information relating to the cause of loss. If the administrative Contracting Officer determines the loss qualifies for indemnification under Section I, paragraphs 4 and 5, the parties shall negotiate the payment terms. In the event the administrative Contracting Officer later determines the loss does not qualify for indemnification, then the contractor shall refund the amount of overpayment to the Government on demand.

**9. TASK AND DELIVERY ORDER OMBUDSMAN (JAN 2007) TCAQ 07-03**

In accordance with FAR 16.505(b)(5), the following individual is designated Ombudsman for all awarded CRAF International contracts. The Ombudsman is an independent official designated to review complaints and to ensure contractors are afforded a fair opportunity to be considered, consistent with the procedures in the contract. Consulting the ombudsman does not alter or postpone the timelines for any other processes. Interested parties should first address their concerns, issues, disagreements, and/or recommendations to the contracting officer for resolution. If resolution cannot be made by the contracting officer, concerned parties may contact:

Mr. Dale Huegen  
Deputy, Acquisition and Business Support Directorate  
Command Acquisition  
Telephone Number: 618-256-4300 FAX: 618-256-4702  
Email Address: [Dale.Huegen@ustranscom.mil](mailto:Dale.Huegen@ustranscom.mil)

**10. Based upon guidance from CENTCOM J4C, the following DFARS Class Deviation applies to individuals performing in theater for 30 days or more:**

**CONTRACTOR PERSONNEL IN THE UNITED STATES CENTRAL COMMAND AREA OF RESPONSIBILITY (DEVIATION 2007-00010)**

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

“Chief of mission” means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) of the Foreign Service Act of 1980 (Public Law 96-465) to be temporarily in charge of such a mission or office.

“Combatant commander” means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161.

(b) *General.* (1) This clause applies when contractor personnel are required to perform in the United States Central Command (USCENTCOM) Area of Responsibility (AOR), and are not covered by the clause at DFARS 252.225-7040, Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States.

(2) Contract performance may require work in dangerous or austere conditions. Except as otherwise provided in the contract, the Contractor accepts the risks associated with required contract performance in such operations.

(3) Contractor personnel are civilians.

(i) Except as provided in paragraph (b)(3)(ii) of this clause, and in accordance with paragraph (i)(3) of this clause, contractor personnel are only authorized to use deadly force in self defense.

(ii) Contractor personnel performing security functions are also authorized to use deadly force when use of such force reasonably appears necessary to execute their security mission to protect assets/persons, consistent with the terms and conditions contained in the contract or with their job description and terms of employment.

(4) Service performed by contractor personnel subject to this clause is not active duty or service under 38 U.S.C. 106 note.

(c) *Support.* Unless specified elsewhere in the contract, the Contractor is responsible for all logistical and security support required for contractor personnel engaged in this contract.

(d) *Compliance with laws and regulations.* The Contractor shall comply with, and shall ensure that its personnel in the USCENTCOM AOR are familiar with and comply with, all applicable—

(1) United States, host country, and third country national laws;

- (2) Treaties and international agreements;
  - (3) United States regulations, directives, instructions, policies, and procedures; and
  - (4) Force protection, security, health, or safety orders, directives, and instructions issued by the Combatant Commander; however, only the Contracting Officer is authorized to modify the terms and conditions of the contract.
- (e) *Preliminary personnel requirements.* (1) Specific requirements for paragraphs (e)(2)(i) through (e)(2)(vi) of this clause will be set forth in the statement of work, or elsewhere in the contract.

(2) Before contractor personnel depart from the United States or a third country, and before contractor personnel residing in the host country begin contract performance in the USCENTCOM AOR, the Contractor shall ensure the following:

- (i) All required security and background checks are complete and acceptable.
- (ii) All personnel are medically and physically fit and have received all required vaccinations.
- (iii) All personnel have all necessary passports, visas, entry permits, and other documents required for contractor personnel to enter and exit the foreign country, including those required for in-transit countries.
- (iv) All personnel have received theater clearance, if required by the Combatant Commander.
- (v) All personnel have received personal security training. The training must at a minimum—
  - (A) Cover safety and security issues facing employees overseas;
  - (B) Identify safety and security contingency planning activities; and
  - (C) Identify ways to utilize safety and security personnel and other resources appropriately.

(vi) All personnel have received isolated personnel training, if specified in the contract. Isolated personnel are military or civilian personnel separated from their unit or organization in an environment requiring them to survive, evade, or escape while awaiting rescue or recovery.

(vii) All personnel who are U.S. citizens are registered with the U.S. Embassy or Consulate with jurisdiction over the area of operations on-line at <http://www.travel.state.gov>.

(3) The Contractor shall notify all personnel who are not a local national or ordinarily resident in the host country that—

(i) Such employees, and dependents residing with such employees, who engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States (see the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261 *et seq.*);

(ii) Pursuant to the War Crimes Act, 18 U.S.C. 2441, Federal criminal jurisdiction also extends to conduct that is determined to constitute a violation of the law of war when committed by a civilian national of the United States;

(iii) Other laws may provide for prosecution of U.S. nationals who commit offenses on the premises of United States diplomatic, consular, military or other Government missions outside the United States (18 U.S.C. 7(9)).

(f) *Processing and departure points.* The Contractor shall require its personnel who are arriving from outside the area of performance to perform in the USCENTCOM AOR to—

(1) Process through the departure center designated in the contract or complete another process as directed by the Contracting Officer;

(2) Use a specific point of departure and transportation mode as directed by the Contracting Officer; and

(3) Process through a reception center as designated by the Contracting Officer upon arrival at the place of performance.

(g) *Personnel data.*

(1) The Contractor shall enter, before deployment, or if already in the USCENTCOM AOR, enter upon becoming an employee under this contract, and maintain current data, including departure date, for all contractor personnel,

including U.S. citizens, U.S. legal aliens, third country nationals, and local national contractor personnel, who are performing this contract in the USCENCOM AOR. This requirement excludes—

- Personnel hired under contracts for which the period of performance is less than 30 days; and
- Embarked contractor personnel, while afloat, that are tracked by the Diary Message Reporting System.

(2) The automated web-based system to use for this effort is the Synchronized Predeployment and Operational Tracker (SPOT). Follow these steps to register in and use SPOT:

(i) SPOT registration can be accomplished by either a Common Access Card or through an Army Knowledge Online (AKO) account.

(ii) In order to obtain an AKO account, the Contractor shall—

(A) Request the Contracting Officer or other Government point of contact to sponsor its AKO guest account;

(B) Go to <http://www.us.army.mil>;

(C) Enter the AKO sponsor username; and

(D) After AKO registration, contact the sponsor to confirm registration.

(iii) *Registration in SPOT.*

(A) Register for a SPOT account at <https://iel.kc.us.army.mil/spotregistration/>.

(B) The customer support team must validate user need. This process may take 2 business days. Company supervisors will be contacted to determine the appropriate level of user access.

(iv) *Access to SPOT.* Upon approval, all users will access SPOT at <https://iel.kc.us.army.mil/spotracker>.

(v) *SPOT Questions.* Refer SPOT application assistance questions to the Customer Support Team at 717-506-1358 or [SPOT@technisource.com](mailto:SPOT@technisource.com).

(3) The Contractor shall ensure that all employees in the database have a current DD Form 93, Record of Emergency Data Card, on file with both the Contractor and the designated Government official. The Contracting Officer will inform the Contractor of the Government official designated to receive the data card.

(h) *Contractor personnel.* The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any contractor personnel who fail to comply with or violate applicable requirements of this contract. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including termination for default or cause.

(i) *Weapons.* (1) If the Contracting Officer, subject to the approval of the Combatant Commander, authorizes the carrying of weapons—

(i) The Contracting Officer may authorize an approved Contractor to issue Contractor-owned weapons and ammunition to specified employees; or

(ii) The \_\_\_\_\_ [Contracting Officer to specify individual, e.g. Contracting Officer Representative, Regional Security Officer, etc.] may issue Government-furnished weapons and ammunition to the Contractor for issuance to specified contractor employees.

(2) The Contractor shall provide to the Contracting Officer a specific list of personnel for whom authorization to carry a weapon is requested.

(3) The Contractor shall ensure that its personnel who are authorized to carry weapons—

(i) Are adequately trained to carry and use them—

(A) Safely;

(B) With full understanding of, and adherence to, the rules of the use of force issued by the Combatant Commander; and

(C) In compliance with applicable Department of Defense and agency policies, agreements, rules, regulations, and other applicable law;

(ii) Are not barred from possession of a firearm by 18 U.S.C. 922; and

(iii) Adhere to all guidance and orders issued by the Combatant Commander regarding possession, use, safety, and accountability of weapons and ammunition.

(4) Upon revocation by the Contracting Officer of the Contractor's authorization to possess weapons, the Contractor shall ensure that all Government-furnished weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(5) Whether or not weapons are Government-furnished, all liability for the use of any weapon by contractor personnel rests solely with the Contractor and the Contractor employee using such weapon.

(j) *Vehicle or equipment licenses.* Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the area of performance.

(k) *Military clothing and protective equipment.* (1) Contractor personnel are prohibited from wearing military clothing unless specifically authorized by the Combatant Commander. If authorized to wear military clothing

contractor personnel must wear distinctive patches, arm bands, nametags; or headgear, in order to be distinguishable from military personnel, consistent with force protection measures.

(2) Contractor personnel may wear specific items required for safety and security, such as ballistic, nuclear, biological, or chemical protective equipment.

(l) *Evacuation.* (1) If the Chief of Mission or Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide to United States and third country national contractor personnel the level of assistance provided to private United States citizens.

(2) In the event of a non-mandatory evacuation order, the Contractor shall maintain personnel on location sufficient to meet contractual obligations unless instructed to evacuate by the Contracting Officer.

(m) *Personnel recovery.* In the case of isolated, missing, detained, captured or abducted contractor personnel, the Government will assist in personnel recovery actions in accordance with DoD Directive 2310.2, Personnel Recovery.

(n) *Notification and return of personal effects.* (1) The Contractor shall be responsible for notification of the employee-designated next of kin, and notification as soon as possible to the U.S. Consul responsible for the area in which the event occurred, if the employee—

(i) Dies;

(ii) Requires evacuation due to an injury; or

(iii) Is isolated, missing, detained, captured, or abducted.

(2) The Contractor shall also be responsible for the return of all personal effects of deceased or missing contractor personnel, if appropriate, to next of kin.

(o) *Mortuary affairs.* Mortuary affairs for contractor personnel who die in the area of performance will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(p) *Changes.* In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in place of performance or Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph shall be subject to the provisions of the Changes clause of this contract.

(q) *Subcontracts.* The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts that require subcontractor personnel to perform in the USCENTCOM AOR.

**PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS**

**SECTION J - LIST OF ATTACHMENTS AND EXHIBITS**

**ATTACHMENTS**

| <u>NO.</u> | <u>NAME</u>   | <u>NUMBER<br/>OF PAGES</u> |
|------------|---|----------------------------|
| 1          | Performance Work Statement For International Airlift Services In Support Of The Department Of Defense And The Civil Reserve Air Fleet, dated 27 Aug 08      | 92                         |
| 2          | DD Form 254, Department of Defense Contract Security Classification Specification, dated December 1999  | 2                          |
| 3          | Wide Area Work Flow – Receipt and Acceptance (WAWF-RA) Electronic Receiving Report And Invoicing Instructions, dated 28 Aug 08 and Ferry Declaration sample | 2                          |
| 4          | USTRANSCOM Contracted Ground Operations For Carrier Use, dated 28 Jan 08  | 3                          |
| 5          | Wage Determinations   |                            |
| 5a         | Wage determination for Seattle, dated 11 Dec 07   | 6                          |
| 5b         | Wage Determination for Air Crews, dated 12 May 08   | 5                          |
| 6          | List of Aircraft Offered to CRAF, dated 28 Aug 08   | 19                         |
| 7          | Listing of Government Furnished Equipment, dated 28 Aug 08  | 9                          |