

CUSTOMER CONTRACT REQUIREMENTS
AMFJTRS
CUSTOMER CONTRACT FA8726-08-C-0003

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

1. FAR Clauses. The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

52.203-6 Restrictions on Subcontractor Sales to the Government (Sep 2006).

This clause applies only if this contract exceeds \$100,000. .

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)) (Jul 1995).

Buyer may withhold from sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. This clause applies only if this contract exceeds \$100,000.

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997).

This clause applies to this contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (Jan 1997).

This clause applies only if this contract exceeds \$100,000. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions

(Sep 2007). This clause applies only if this contract exceeds \$100,000. Paragraph (g)(2) is modified to read as follows: "(g)(2) Seller will promptly submit any disclosure required (with written notice to Boeing) directly to the PCO for the prime contract. Boeing will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor." .

52.204-2 Security Requirements (Aug 1996). Changes clause means the changes clause of this contract. This clause applies only if access to classified material is required.

52.204-9 Personal Identity Verification of Contractor Personnel (Sep 2007).

This clause applies only if performance under this contract requires Seller to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. .

52.211-5 Material Requirements (Aug 2000). Any notice will be given to Buyer rather than the Contracting Officer.

52.215-2 Audit and Records - Negotiation (Jun 1999). This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types: (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of the referenced clause.

52.215-11 Price Reduction For Defective Cost or Pricing Data - Modifications (Oct 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 and is not otherwise exempt. "Contracting Officer" shall mean "Contracting Officer or Buyer." In subparagraph (d)(2)(i)(A), delete "to the Contracting Officer." In subparagraph (d)(2)(ii)(B), "Government" means "Government" or "Buyer." In Paragraph (e), "United States" shall mean "United States or Buyer." .

52.215-13 Subcontractor Cost or Pricing Data - Modifications (Oct 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 and is not otherwise exempt. The certificate required by paragraph (c) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's representative" and substitute in lieu thereof "to The Boeing Company or The Boeing Company's representative (including data submitted, when applicable, to an authorized representative of the U.S. Government)." .

52.215-14 Integrity of Unit Prices (excluding subparagraph (b)) (Oct 1997). This clause applies except for contracts at or below \$100,000; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications (Oct 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4. The term "Contracting Officer" shall mean Buyer.

52.219-8 Utilization of Small Business Concerns (May 2004).

52.219-9 Small Business Subcontracting Plan (Sep 2007). In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$550,000 and Seller is not a small business concern.

- 52.222-1 Notice to Government of Labor Disputes** (Feb 1997). Contracting Officer shall mean Buyer.
- 52.222-20 Walsh-Healy Public Contracts Act** (Dec 1996). This clause applies only if this contract exceeds \$10,000.
- 52.222-21 Prohibition of Segregated Facilities** (Feb 1999).
- 52.222-26 Equal Opportunity** (Mar 2007).
- 52.222-35 Equal Opportunity for Special Disabled, Veterans of the Vietnam Era, and Other Eligible Veterans** (Sep 2006). This clause applies only if this contract exceeds \$25,000.
- 52.222-36 Affirmative Action for Workers With Disabilities** (Jun 1998). This clause applies only if this contract exceeds \$ 10,000.
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans** (Sep 2006). This clause applies only if this contract exceeds \$25,000.
- 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees** (Dec 2004). This clause applies only if this contract exceeds \$100,000.
- 52.222-50 Combating Trafficking in Persons** (Aug 2007). In paragraph (d), the term "Contracting Officer" means Buyer, and in paragraph (e), the term "the Government" means Buyer. This clause applies if the contract includes the acquisition of services. .
- 52.223-3 Hazardous Material Identification and Material Safety Data** (Jan 1997). This clause applies only if Seller delivers hazardous material under this contract.
- 52.223-7 Notice of Radioactive Materials** (Jan 1997). This clause applies only if this contract involves (i) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or (ii) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. "Contracting Officer" shall mean Buyer. In the blank in paragraph (a), insert "60 days." .
- 52.223-14 Toxic Chemical Release Reporting (excluding subparagraph (e))** (Aug 2003). This clause applies only if this contract is not for commercial items as defined in FAR Part 2, was competitively awarded, and exceeds \$100,000 (including all options).
- 52.225-13 Restrictions on Certain Foreign Purchases** (Feb 2006).

- 52.227-1 Authorization and Consent** (Dec 2007).
- 52.227-1 Authorization and Consent** (JUL 1995) - **Alternate I** (APR 1984)
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement** (Dec 2007). A copy of each notice sent to the Government will be sent to Buyer.
- 52.227-10 Filing of Patent Applications - Classified Subject Matter** (Dec 2007).
- 52.230-6 Administration of Cost Accounting Standards** (Apr 2005). Add "Buyer and the" before "CFAO" in paragraph (m). This provision applies if Clause H001, H002 or H004 is included in Buyer's contract.
- 52.234-1 Industrial Resources Developed Under Defense Production Act Title III** (Dec 1994).
- 52.234-4 Earned Value Management System** (Jul 2006). This clause applies to those subcontractors specified elsewhere in this contract.
- 52.242-15 Stop Work Order (Aug 1989), Alternate I** (Apr 1984). Change "90 days" and "30 days" to "100 days" and "20 days" respectively. The terms "Contracting Officer" and "Government" shall mean Buyer.
- 52.244-5 Competition in Subcontracting** (Dec 1996).
- 52.244-6 Subcontracts for Commercial Items** (Mar 2007).
- 52.245-1 Government Property (Jun 2007), Alternate I** (Jun 2007).
- 52.247-63 Preference for U.S.-Flag Air Carriers** (Jun 2003). This clause only applies if this contract involves international air transportation.

2. DoD FAR Supplement Clauses. DoD Contracts. The following contract clauses are incorporated by reference from the Department of Defense Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, \"Contractor\" and \"Offeror\" mean Seller except as otherwise noted.

252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract Related Felonies (excluding paragraph (g)) (Dec 2004). This clause applies only if this contract exceeds \$100,000 and does not apply to the purchase of commercial items or commercial components. "Contractor" and "contract" are not changed in paragraphs (a) and (b). In paragraph (e), "Government" shall mean Government or Buyer. In paragraph (f), "through the Buyer" is inserted after "Contracting Officer". Paragraph (g) is deleted and "Contracting Officer" shall mean Contracting Officer.

252.204-7000 Disclosure of Information (Dec 1991). Seller will submit requests for authorization to release through Buyer.

252.208-7000 Intent to Furnish Precious Metals as Government-Furnished Material (Dec 1991). The term "Offeror" shall mean Seller. This clause applies only if this contract exceeds \$100,000 and if an item being purchased contains precious metal.

252.211-7000 Acquisition Streamlining (Dec 1991). This clause applies only if this contract exceeds \$1 million.

252.211-7003 Item Identification and Valuation (Jun 2005). Seller shall comply with the unique item identification requirements of this clause for those subassemblies, components, and parts specified elsewhere in this contract. Such identification and marking shall be a high-capacity 2D machine readable code to comply with the version of MIL-STD-130, Identification Marking of U.S. Military Property, set forth elsewhere in this contract; or if not so stated, then the Seller shall comply with MIL-STD-130 L. The code may include, as space is available, linear bar code and human readable characters. Unless otherwise specified in Boeing product drawings or specifications, the seller may use either Construct #1 or Construct #2. The Seller shall not be required to furnish item valuations as set forth in this clause.

252.219-7003 Small Business Subcontracting Plan (DoD Contracts) (Apr 2007). Except paragraph (g) which is hereby deleted.

252.223-7001 Hazard Warning Labels (Dec 1991). This clause applies only if Seller delivers hazardous material under this contract.

252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials (APR 1993) - **Alternate I** (NOV 1995) This clause applies to this contract if it requires, may require, or permits Seller to treat or dispose of non-DoD-owned toxic or hazardous materials as defined in this clause.

252.225-7002 Qualifying Country Sources as Subcontractors (Apr 2003).

252.225-7004 Report of Intended Performance Outside the United States and Canada - Submission After Award (May 2007). The term "Contractor" in paragraph (b) and the term "Contracting Officer" in paragraphs (c) and (d) means "Buyer." This clause applies only if this contract exceeds \$550,000.

252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States (May 2007). This clause applies only if this contract exceeds \$550,000 and is not for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

252.225-7012 Preference for Certain Domestic Commodities (Jan 2007).

252.225-7014 (See section 5.C for full text clause.)

252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (Mar 2006). This clause does not apply to the purchase of commercial items other than ball or roller bearings or to items which contain no ball or roller bearings.

252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Sep 2004). This clause applies only if this contract exceeds \$500,000.

252.227-7013 Rights in Technical Data - Noncommercial Items (Nov 1995). This clause applies only if the delivery of data is required for noncommercial items under this contract.

252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Jun 1995). This clause applies only if the delivery of noncommercial computer software or noncommercial computer documentation may be originated, developed or delivered under this contract.

252.227-7016 Rights in Bid or Proposal Information (Jun 1995).

252.227-7030 Technical Data - Withholding of Payment (Mar 2000). In this clause, "Government" and "Contracting Officer" shall mean Buyer. This clause applies only if the delivery of technical data is required under this contract.

252.227-7037 Validation of Restrictive Markings on Technical Data (Sep 1999). This clause applies only if the delivery of data is required by this contract.

252.231-7000 Supplemental Cost Principles (Dec 1991).

252.235-7003 Frequency Authorization (Dec 1991) - Alternate I (Dec 1991). This clause applies only if this contract requires the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required..

252.242-7002 Earned Value Management System (Mar 2005).

252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (Nov 2005).

252.247-7023 Transportation of Supplies by Sea (May 2002). This clause applies only if the supplies are of a type described in paragraph (b)(2) of this clause. In paragraph (d), "45 days" is changed to "60 days." In paragraph (g) "Government" means Buyer. If this contract is at or below \$100,000, paragraphs (f) and (g) are excluded.

252.247-7024 Notification of Transportation of Supplies by Sea (Mar 2000). Contracting Officer and, in the first sentence of paragraph (a), Contractor mean Buyer.

This clause applies only if the supplies being transported are noncommercial items or commercial items that (i) Seller is reselling or distributing to the Government without adding value (generally, Seller does not add value to items that it contracts for f.o.b. destination shipment); (ii) are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or (iii) are commissary or exchange cargoes transported outside the Defense Transportation System in accordance with 10 U.S.C. 2643.

252.249-7002 Notification of Anticipated Contract Terminations or Reduction (Dec 2006). This clause applies only if this contract is \$550,000 or more. Seller will comply with the notice and flowdown requirements of paragraph (d)(2) of the referenced clause.

3. Commercial Items. If goods or services being procured under this contract are commercial items and Clause H203 is set forth in the purchase order, the foregoing Government clauses in Sections 1 and 2 above are deleted and the following FAR/DFARS clauses are inserted in lieu thereof:

52.219-8 Utilization of Small Business Concerns (May 2004).

This clause applies only if the supplies are of a type described in paragraph (b)(2) of this clause. In paragraph (d), "45 days" is changed to "60 days." In paragraph (g) "Government" means Buyer. If this contract is at or below \$100,000, paragraphs (f) and (g) are excluded.

52.222-26 Equal Opportunity (Mar 2007).

52.222-35 Equal Opportunity for Special Disabled, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006). This clause applies only if this contract exceeds \$25,000.

52.222-36 Affirmative Action for Workers With Disabilities (Jun 1998). This clause applies only if this contract exceeds \$10,000.

52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004). This clause applies only if this contract exceeds \$100,000.

252.225-7012 Preference for Certain Domestic Commodities (Jan 2007).

252.225-7014 Preference for Domestic Specialty Metals (Feb 1997), Alternate I (Feb 2007).

252.247-7023 Transportation of Supplies by Sea (May 2002).

This clause applies only if the supplies are of a type described in paragraph (b)(2) of this clause. In paragraph (d), "45 days" is changed to "60 days." In paragraph (g) "Government" means Buyer. If this contract is at or below \$100,000, paragraphs (f) and (g) are excluded.

252.247-7024 Notification of Transportation of Supplies by Sea (Mar 2000). "Contracting Officer" and, in the first sentence of paragraph (a), "Contractor" mean Buyer. This clause applies only if the supplies being transported are noncommercial items or commercial items that (i) Seller is reselling or distributing to the Government without adding value (generally, Seller does not add value to items that it contracts for f.o.b. destination shipment); (ii) are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or (iii) are commissary or exchange cargoes transported outside the Defense Transportation System in accordance with 10 U.S.C. 2643.

4. Cost Accounting Standards.

(1) (Applicable if this contract incorporates clause H001). The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause H001 is the version dated April 1998.

5. The following prime contract special provisions apply to this purchase order:

A. 52.234-04 EARNED VALUE MANAGEMENT SYSTEM (JUL 2006)
(TAILORED) *This clause only applies to the contractors listed in paragraph (g).*

(a) The Contractor shall use an earned value management system (EVMS) that has been determined by the Cognizant Federal Agency (CFA) to be compliant with the guidelines in ANSI/EIA Standard - 748 (current version at the time of award) to manage this contract. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.

(b) If, at the time of award, the Contractor's EVM System has not been determined by the CFA as complying with EVMS guidelines or the Contractor does not have an existing cost/schedule control system that is compliant with the guidelines in ANSI/EIA Standard - 748 (current version at time of award), the Contractor shall--

- (1) Apply the current system to the contract; and
- (2) Take necessary actions to meet the milestones in the Contractor's EVMS plan approved by the Contracting Officer.

(c) The Government will conduct an Integrated Baseline Review (IBR). If a pre-award IBR has not been conducted, a post award IBR shall be conducted as early as practicable after contract award.

(d) The Contracting Officer may require an IBR at--

- (1) Exercise of significant options; or
- (2) Incorporation of major modifications.

(e) Unless a waiver is granted by the CFA, Contractor proposed EVMS changes require approval of the CFA prior to implementation. The CFA will advise the Contractor of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the CFA, the Contractor shall

disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.

(f) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or a duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS conforms, and continues to conform, with the performance criteria referenced in paragraph (a) of this clause.

(g) The Contractor shall require the subcontractors specified below to comply with the requirements of this clause:

ROCKWELL COLLINS
L3 COMMUNICATIONS
HARRIS CORPORATION
NORTHROP GRUMMAN

B. 5352.215-9008 ENABLING CLAUSE BETWEEN PRIME CONTRACTORS AND SERVICE CONTRACTORS (AFMC) (JUL 1997) (TAILORED)

(a) The Air Force has entered into contracts with Dynamics Research Corporation

60 Frontage Road
Andover, MA 01810
POC: Randy Sablich
Ph: (781) 274-6700 x211

ManTech C2 Systems (Formerly ACS Defense, LLC)
200 Wheeler Road, South Tower, 4th Floor
Burlington, MA 01803
POC: Roger Goudreau
Ph: (781) 229-9487 x15

ARINC, Incorporated
70 Westview Street
Lexington, MA 02173
POC: John Orr
Ph: (781) 860-4501

Tecolote Research, Incorporated
54 Middlesex Turnpike
Bedford, MA 01730
POC: Ronald Bowen
Ph: (781) 275-3014 x606

BTAS, Incorporated
3572 Dayton-Xenia Road, Suite 210
Beavercreek, OH 45432
POC: George Taft
Ph: (937) 431-9431

MCR Federal, LLC
2000 Corporate Ridge, Suite 400

McLean, VA 22102
POC: Paul Marston
Ph: (781) 687-9000

SI International (formerly MATCOM)
91 Hartwell Ave., 3d Floor
Lexington, MA 02421 -3130
POC: Steve Chimelski
Ph: (781) 861-8840

Odyssey Systems Consulting Group, Ltd
201 Edgewater Drive, Suite 270
Wakefield, MA 01880
POC: Michael Sweat
Ph: (781) 245-0111

L3 Communications
The Titan Corporation
300 Concord Road, 4th Floor
Billerica, MA 01821 -3476
POC: Michael Botan
Ph: (978) 663-6600

Oasis Systems, Incorporated
34 Crosby Drive
Bedford, MA 01730
POC: Jack Harrington
Ph: (781) 271-9444

for services to provide for services to provide technical, evaluation, and acquisition management support.

(b) The National Security Agency (NSA) entered into contracts with

Booz Allen Hamilton
900 Elkridge Landing Road, Suite 100
Linthicum, MD 21090
POC: Robin Guthrie
Ph: (301) 543-4533

The Titan Corporation
7480 Candlewood Road
Hanover, MD 20701
POC: Kathleen Morris
Ph: (410) 694-4912

for services to provide technical evaluation and acquisition management support.

(c) The Space and Naval Warfare Systems Command entered into contracts with

Booz Allen Hamilton
1615 Murray Canyon Road
San Diego, CA 92108
POC: Scott Terry
Ph: (619) 725-6864

Scientific Research Corporation (SRC)
2300 Windy
Ridge Parkway, Suite 400 South
Atlanta, GA 30330
POC: Michael Gmitro
Ph: (843) 218-7208

INDUS Technology, Incorporated
2243 San Diego Avenue
San Diego, CA 92110
POC: Kevin Lover
Ph: (858) 537-0553

Science Applications International Corporation (SAIC)
4015 Hancock Street
San Diego, CA 92110
POC: Raymond Moberly
Ph: (619) 533-8053

SFA
2727 Camino Del Rio South, Suite 104
San Diego, CA 92018
POC: Scott Miller
Ph: (619) 683-7449

Titan
2457 W. Aviation Avenue
N. Charleston, SC 294-6-4934
POC: Dave Kalin
Ph: (843) 824-2227

Nathan Kunes, Incorporated
155 Alameda Boulevard
San Diego, CA 92118
POC: David Kunes
Ph: (619) 553-7134

(d) The Defense Cost and Resource Center (DCRC) has entered into contracts with

Technomics, Inc.
201 12th Street South, Suite 612
Arlington, VA 22202
POC: Rick Collins
Ph: (703) 412-0602

(e) The Army has entered into contracts with

Janus Research Group, Incorporated
6504 Reservoir road
Appling, GA 30802
POC: Thomas Duke
Ph: (706) 309-9300

OTC, Incorporated

1428 Weatherly Road, SE, Suite 106
Huntsville, AL 35803
POC: tom Bennett
Ph: (256) 489-2623

- (f) Service tasks involve the application of a broad range of education, skills, knowledge, and experience in many disciplines in support of weapon system acquisition tasks. Tasks involve
- (1) Evaluate from a technical and financial standpoint whether system concepts and performance can be expected to be achieved on schedule and within cost.
 - (2) Assure that the impact of new data, new developments, and modified requirements is properly assessed and exploited.
 - (3) Technical, cost Estimating, Evaluation, and acquisition management support.

(g) In the performance of this contract, the Contractor agrees to cooperate with the contractors listed above by responding to invitations from authorized personnel to attend meetings; providing access to technical information and research, development and planning data, test data and results, schedule and milestone data, financial data including the Contractor's cost/schedule management system/records and accounting system, all in original form or reproduced; discussing technical matters related to the program; providing access to Contractor facilities utilized in the performance of this contract; and allowing observation of technical activities by appropriate support Contractor technical personnel).

(h) The Contractor further agrees to include in each subcontract over \$1 million or 10 percent of prime contract value, whichever is less, a clause requiring compliance by a subcontractor and succeeding levels of subcontractors with the response and access provisions of paragraph (c) above, subject to coordination with the Contractor. This agreement does not relieve the Contractor of responsibility to manage subcontracts effectively and efficiently, nor is it intended to establish privity of contracts between the Government or the service Contractor(s) and such subcontractors.

(i) Service Contractor personnel are not authorized to direct a Contractor in any manner.

(j) Service contracts contain an organizational conflict of interest clause that requires the service Contractors to protect the data and prohibits the service Contractors from using the data for any purpose other than that for which the data was presented.

(k) Neither the Contractor nor their subcontractors shall be required in the satisfaction of the requirements of this clause to perform any effort or supply any documentation not otherwise required by their contract or subcontract.

C. 252.225-7014 PREFERENCE FOR DOMESTIC SPECIALITY METALS (DEVIATION 2008-O0002) ALTERNATE I (DEVIATION 20098-O0002) (FEB 2008)

(a) Definitions. As used in this clause -

- (1) "Assembly" means an item forming a portion of a system or subsystem that can be provisioned and replaced as an entity and which incorporates multiple, replaceable parts.
- (2) "Commercial derivative military article" means an item procured by the Department of Defense that is or will be produced using the same production facilities, a common supply chain, and the same or similar production processes that are used for the production of articles predominantly used by the general public or by nongovernmental entities for purposes other than governmental purposes.
- (3) "Commercially available off-the-shelf item" -
 - (i) Means any item of supply that is-
 - (A) A commercial item;
 - (B) Sold in substantial quantities in the commercial market place; and

- (C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App 1702), such as agricultural products and petroleum products.
- (4) "Component" means any item supplied to the Government as part of an end item or of another component.
- (5) "Electronic component" means an item that operates by controlling the flow of electrons or other electrically charged particles in circuits, using interconnections of electrical devices such as resistors, inductors, capacitors, diodes, switches, transistors, or integrated circuits.
- (6) "End item" means the final production product when assembled or completed, and ready for issue, delivery, or deployment.
- (7) "Produce" means the application of forces or processes to a specialty metal to create desired physical properties through quenching or tempering of steel plate, or gas atomization or sputtering of titanium.
- (8) "Qualifying country" means any country listed in subsection 225.872-1(a) or (b) of the Defense federal Acquisition Regulation Supplement (DFARS).
- (9) "Required form" means in the form of mill product, such as bar, billet, wire, slab, plate or sheet, and in the grade appropriate for the production of-
- (i) A finished end item delivered to the Department of Defense; or
- (ii) A finished component assembled into an end item delivered to the Department of Defense.
- (10) "Specialty metal" means -
- (i) Steel -
- (A) With a maximum alloy content exceeding one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or
- (B) Containing more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, molybdenum, nickel, niobium (columbium), titanium, tungsten, or vanadium;
- (ii) Metal alloys consisting of -
- (A) Nickel or iron-nickel alloys that contain a total of alloying metals other than nickel and iron in excess of 10 percent; or
- (B) Cobalt alloys that contain a total of alloying metals other than cobalt and iron in excess of 10 percent;
- (iii) Titanium and titanium alloys; or
- (iv) Zirconium and zirconium alloys.
- (11) "Subsystem" means a functional grouping of items that combine to perform a major function within an end item such as electrical power, attitude control, and propulsion.
- (b) Except as provided in paragraph (c) of this clause, any specialty metals incorporated in items delivered under this contract shall be melted or produced in the United States, its outlying areas, or a qualifying country, except for
- (1) Electronic components;
- (2)
- (i) Commercially available off-the-shelf (COTS) items; other than-
- (A) COTS fasteners, unless such fasteners are incorporated into COTS end items, subsystems, assemblies, or components.
- (B) Forgings or castings of specialty metals, unless such forgings or casings are incorporated into COTS end items, subsystems, or assemblies.
- (C) Commercially available high performance magnets, unless such high performance magnets are incorporated into COTS end items or subsystems.

(ii) A COTS item is considered to be “offered without modification” as long as it is not modified prior to contractual acceptance by the next higher tier in the supply chain.

(A) Specialty metals contained in a COTS item that was accepted without modification by the next higher tier are excepted and remain excepted even if a piece of the COTS item subsequently is removed (e.g., the end is removed from a COTS screw or an extra hole is drilled in a COTS bracket).

(B) For specialty metals that were not contained in a COTS item upon acceptance, the added specialty metals are subject to the restrictions (e.g., a special reinforced handle made of specialty metal that is added to a COTS item).

(C) If two or more COTS items are combined in such a way that the resultant item is not a COTS item, only the specialty metals involved in joining the COTS items together are subject to the restrictions (e.g., a COTS aircraft is outfitted with a COTS engine, but not the COTS engine normally provided with that aircraft).

(D) For COTS items that are normally sold in the commercial marketplace with various options, items that include such options are also COTS items. However, if a COTS item is offered to the Government with an option that is not normally offered in the commercial marketplace, that option is subject to the specialty metals restrictions, (e.g. An aircraft is normally sold to the public with an option for several different radios. DoD requests a military-unique radio. The aircraft is still a COTS item, but the military-unique radio is not a COTS item, and must comply with the specialty metals restrictions, unless another exception applies).

(3) Fasteners that are commercial items that are purchased under a contract or subcontract with a manufacturer of such fasteners, if the manufacturer has certified that it will purchase, during the relevant calendar year, an amount of domestically melted specialty metal, in the required form, for use in the production of fasteners for sale to the Department of Defense and other customers, that is not less than 50% of the total amount of the specialty metal that it will purchase to carry out the production of such fasteners for all customers.

(4) Items manufactured in a qualifying country;

(5) Items for which the Government has determined in accordance with 225.700X-3 of Class Deviation 2008-O0002 that specialty metal melted or produced in the United States cannot be acquired as and when needed in-

- (i) A satisfactory quality;
- (ii) A sufficient quantity; and
- (iii) The required form.

(6) Specialty metals, other than specialty metals in high performance magnets, that do not meet any of the exceptions in paragraphs (b)(1) through (5) of this clause, if the total weight of such noncompliant metals does not exceed 2 percent of the total weight of specialty metals in the item, as estimated in good faith by the Contractor.

(c)

(1) Streamlined compliance for commercial derivative military articles. As an alternative to the compliance required in paragraph (b) of this clause, the Contractor may purchase an amount of domestically melted specialty metals in the required form, for use during the period of contract performance in the production of the commercial derivative military article and the related commercial article, in the amount determined in accordance with paragraph (c)(2) of this clause, if-

- (i) This is an acquisition of commercial derivative military articles; and
- (ii) The Contractor has certified in its offer in accordance with paragraph (c)(2) of this clause.

(2) Certification for streamlined compliance for commercial derivative military articles (to be submitted with offer when applicable). The offeror ___ certifies, ___ does not certify that prior to award it will have entered into a contractual agreement or agreements to

purchase an amount of domestically melted or produced specialty metal in the required form for use during the period of contract performance in the production of the commercial derivative military article and the related commercial article, that is not less than the Contractor's good faith estimate of-

(i) An amount equivalent to 120% of the amount of specialty metal that is required to carry out the production of the commercial derivative military article (including the work performed under each subcontract); or

(ii) An amount equivalent to 50% of the amount of specialty metal that is purchased by the contractor and its subcontractors for use during such period in the production of the commercial derivative military article and the related commercial article.

(3) For the purposes of the certification in paragraph (c)(2) of this clause, the amount of specialty metal that is required to carry out the production of the commercial derivative military article includes specialty metal contained in any item, including commercially available off-the-shelf items, incorporated into such commercial derivative military article.

(d) Unless the Contractor has certified in accordance with paragraph (c), the Contractor shall insert the substance of this clause, excluding paragraph (c) but including this paragraph (d), in all subcontracts for articles containing specialty metals.