

Remark S400_SY
H98230-25-9-0014
Non-Sensitive Flowdowns
28 July 2026

The Citizenship clause below is applicable to any Suppliers that will handle/manage CUI:

This program's OPSEC requirements specifically state CUI requires US Citizens, or by special reporting only, US Persons and US Dual Citizens. Foreign Nationals are prohibited from working on this program.

- A US Citizen is an individual who has obtained citizenship through birth in the US, naturalization, or through US Citizen parents.
- A US Person is a lawful permanent resident of the United States (i.e. "Green Card holder") or a protected individual as defined by 8 USC 1101(a)(2) or 8 USC 1324b(a)(3), and individuals who meet the substantial presence test (those who have been physically present in the US for a certain number of days).
- US Citizens with Dual Citizenship must notify customer before working on this program.
- A Foreign National is any person who is not a lawful permanent resident, including individuals in the U.S. on a student or work visa. Foreign Nationals are not permitted to work on this program.

*Please notify GE Aerospace if anticipating using US Persons or US Dual Citizens on this program.

Reporting Requirements

The Seller agrees that, for a period of five (5) years after the completion of this Agreement, all data generated under this agreement, but not delivered to the CUSTOMER, must be made available to CUSTOMER representatives upon request by the CUSTOMER AO or CUSTOMER PM.

Intellectual Property Rights

Intellectual Property ownership shall be governed by C64, Article 8a and 8b.

Government's Rights

Seller will provide the Government with Government Purpose data rights in all technical data and software delivered under this Agreement for a period of five (5) years, which shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the items, components, or processes or creation, with the following exceptions listed below. Upon expiration of the five (5) year period of the Government Purpose Rights, the Government shall have Unlimited Rights in all technical data and software delivered under this Agreement.

In addition to the assertions made in the table above, other assertions may be identified after award based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the CUSTOMER AO as soon as practicable prior to the scheduled date for delivery of technical data or software, signed by an official authorized to contractually obligate the contractor. The CUSTOMER AO reserves the right to add the participants to the table above, and validate any listed assertion, at a later date.

Lower Tier Agreements

The Seller shall include this Article, suitably modified to identify the parties, in any subcontracts, as applicable.

Marking of Scientific/Technical Data

In addition to the above marking, all unclassified technical data/reports, photographs, drawings,

schematics, design circuits and description of equipment designed and/or produced under the agreement must be marked with the appropriate dissemination control and distribution statement(s) in accordance with the Agency classification marking procedures. Where SF Form 298 is required to accompany a document, the dissemination control and distribution statement(s) must be entered in Block 12a thereof.

The Seller is responsible for inserting the appropriate application date in the aforementioned legend. This date must be the date upon which the document was completed.

Foreign Access To Technology

This Article shall remain in effect during the term of the Agreement and for five (5) years thereafter.

Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions

The Agency shall have and retain the absolute right to deny entering into discussions or agreements with any foreign entity concerning the prototype or product. To the extent that any foreign discussions or agreements may be permitted by the Agency, Seller shall comply with all applicable laws and regulations regarding export-controlled items prior to entering into any discussions or agreements concerning the marketing, sale, release, co-production, and/or exchange of the prototype or product equipment or information with, including but not limited to, any foreign person, foreign governments, foreign agencies, foreign companies, or foreign government-authorized users.

Lower Tier Agreements

The Seller shall include this Article, suitably modified, to identify the Parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

Security Requirements

A. Safeguarding Controlled Unclassified Information & Controlled Technical Information and Cyber Incident Reporting

1. Protection of Controlled Unclassified information (CUI) and Controlled Technical Information (CTI) is of paramount importance to CUSTOMER and can directly impact the ability of CUSTOMER to successfully conduct its mission. Therefore, this Article requires the Seller to protect CUI and CTI that resides on the Seller's information systems. This article also requires the Seller to rapidly report any cyber incident involving CUI or CTI.

2. The Seller shall implement the version of NIST Special Publication (SP) 800-171 in effect at the time the solicitation is issued or as authorized by the CUSTOMER Agreements Officer for CUI and CTI that resides on the Seller's information systems. Consistent with NIST SP 800-171, implementation may be tailored to facilitate equivalent safeguarding measures used in the Seller systems and organization. Any suspected loss or compromise of CUI or CTI that resides on the Seller's information systems shall be considered a cyber-incident and require the Seller to rapidly report the incident to CUSTOMER in accordance with subparagraph 8.3 of this Article.

3. Upon discovery of a cyber-incident involving CUI or CTI, the Seller shall take immediate steps to mitigate any further loss or compromise. The Seller shall rapidly report the incident to CUSTOMER and provide sufficient details of the event-including identification of detected and isolated malicious software-to enable CUSTOMER to assess the situation and provide feedback to the Seller regarding further reporting and potential mitigation actions. The Seller shall preserve and protect images of all known affected information systems and all relevant monitoring/packet capture data for at least 90 days from reporting the cyber incident to enable CUSTOMER to assess the cyber incident. The Seller agrees to rapidly implement security measures as recommended by CUSTOMER and to provide to CUSTOMER any additionally requested information to help the Parties resolve the cyber incident and to prevent future cyber incidents.

4. All information and data covered by this Article must be reviewed and approved by CUSTOMER prior to any public release, with requests routed through the Government's points of contacts identified herein.

5. The Seller shall include this Article in all subcontracts or lower tier agreements, regardless of tier, for work performed in support of this Agreement.

B. Adequate Security

The Seller shall provide adequate security on all covered Seller information systems. To provide adequate security, the Seller shall implement, at a minimum, the following information security protections:

For covered Seller information systems that are part of an Information Technology (IT) service or system operated on behalf of the Government, the following security requirements apply:

- Cloud computing services shall be subject to the security requirements specified in 48 CFR 239.7602,
- Any other such IT service or system (i.e., other than cloud computing) shall be subject to the security requirements specified elsewhere in this agreement.

For covered Seller information systems that are not part of an IT service or system operated on behalf of the Government and therefore are not subject to the security requirement specified above the following security requirements apply:

The covered Seller information system shall be subject to the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations" (available via the internet at <https://csrc.nist.gov/publications/sp800-171>) in effect at the time the solicitation is issued or as authorized by the Agreements Officer.

The Seller shall submit requests to vary from NIST SP 800-171 in writing to the Agreements Officer, for consideration by the DoD CIO. The Seller need not implement any security requirement adjudicated by an authorized representative of the DoD CIO to be nonapplicable or to have an alternative, but equally effective, security measure that may be implemented in its place.

If the DoD CIO has previously adjudicated the Seller's requests indicating that a requirement is not applicable or that an alternative security measure is equally effective, a copy of that approval shall be provided to the Agreements Officer when requesting its recognition under this agreement.

If the Seller intends to use an external cloud service provider to store, process, or transmit any covered defense information in performance of this agreement, the Seller shall require and ensure that the cloud service provider meets security requirements equivalent to those established by the Government for the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline (<https://www.fedramp.gov/documents/temp/ates/>) and that the cloud service provider complies with requirements in paragraphs (c) through (g) of this article for cyber incident reporting, malicious software, media preservation and protection, access to additional information and equipment necessary for forensic analysis, and cyber incident damage assessment.

Apply other information systems security measures when the Seller reasonably determines that information systems security measures, in addition to those identified in paragraphs (b)(1) and (2) of this article, may be required to provide adequate security in a dynamic environment or to accommodate special circumstances (e.g., medical devices) and any individual, isolated, or temporary deficiencies based on an assessed risk or vulnerability. These measures may be addressed in a system security plan.

C. Cyber Incident Reporting

When the Seller discovers a cyber incident that affects a covered Seller information system or the covered defense information residing therein, or that affects the Seller's ability to perform the requirements of the agreement that are designated as operationally critical support and identified in the agreement, the Seller shall-

- Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered Seller information system(s) that were part of the cyber incident, as well as other information systems on the Seller's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the Seller's ability to provide operationally critical support; and
- Rapidly report cyber incidents to DoD at <https://dibnet.dod.mil>.

Cyber incident report. The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required elements at <https://dibnet.dod.mil>.

Medium assurance certificate requirement. In order to report cyber incidents in accordance with this article, the Seller or subcontractor shall have or acquire a DoD-approved medium assurance

certificate to report cyber incidents. For information on obtaining a DoD-approved medium assurance certificate, see <https://public.cyber.mil/eca/>.

D. Malicious Software

When the Seller or subcontractors discover and isolate malicious software in connection with a reported cyber incident, submit the malicious software to DoD Cyber Crime Center (DC3) in accordance with instructions provided by DC3 or the Agreements Officer. Do not send the malicious software to the Agreements Officer.

E. Media Preservation and Protection

When a Seller discovers a cyber-incident has occurred, the Seller shall preserve and protect images of all known affected information systems identified Cyber Incident Reporting section of this article and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

F. Cyber Incident Damage Assessment Activities

If DoD elects to conduct a damage assessment, the Agreements Officer will request that the Seller provide all of the damage assessment information gathered in accordance with Media Preservation and Protection paragraph of this article.

G. DoD Safeguarding and Use of Seller Attributional/Proprietary Information

The Government shall protect against the unauthorized use or release of information obtained from the Seller (or derived from information obtained from the Seller) under this article that includes Seller attributional/proprietary information, including such information submitted in accordance with Cyber Incident Reporting. To the maximum extent practicable, the Seller shall identify and mark attributional/proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the Seller attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

H. Use and Release of Seller Attributional/Proprietary Information not created by or For DoD

Information that is obtained from the Seller (or derived from information obtained from the Seller) under this article that is not created by or for DoD is authorized to be released outside of DoD-

- To entities with missions that may be affected by such information;
- To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;
- To Government entities that conduct counterintelligence or law enforcement investigations;
- For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) Sellers in the program at 32 CFR part 236); or
- To a support services Seller ("recipient") that is directly supporting Government activities under an agreement that includes a provision outlining the limitations on the use or disclosure of third-party contractor reported cyber incident information.

I. Use and Release of Seller Attributional/Proprietary Information created by or for DoD

Information that is obtained from the Seller (or derived from information obtained from the Seller) under this article that is created by or for DoD (including the information submitted pursuant to Cyber Incident Reporting) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph I of this article, and for any other lawful Government purpose or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

J. Disclosure of Electronic Communications Data

The Seller shall conduct activities under this article in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

K. Other Safeguarding or Reporting Requirements

The safeguarding and cyber incident reporting required by this article in no way abrogates the Seller's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable articles of this agreement, or as a result of other applicable U.S. Government statutory or regulatory requirements.

L. Subcontracts

The Seller shall-

Include this article, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial products or commercial services, without alteration, except to identify the parties. The Seller shall determine if the information required for subcontractor performance retains its identity as covered defense information and will require protection under this article, and, if necessary, consult with the Agreements Officer; and
Require subcontractors to—

- Notify the prime Seller (or next higher-tier subcontractor) when submitting a request to vary from a NIST SP 800-171 security requirement to the Agreements Officer; and
- Provide the incident report number, automatically assigned by DoD, to the prime Seller (or next higher-tier subcontractor) as soon as practicable, when reporting a cyber incident to DoD as required in this article.

M. Public Release or Dissemination of Information Generally

The Seller shall not release to anyone outside the Seller's organization any unclassified information, regardless of medium, pertaining to any part of this Agreement or any program related to this Agreement unless the AO has given prior written approval or the information is otherwise in the public domain before the date of release. The Seller must not disclose any information concerning the sponsorship of this Agreement, or the nature of the Government's interest in and application of the subject matter of this Agreement unless this type of information is expressly allowed to be disclosed by written approval of the AO. The Seller agrees to include a similar requirement in each subcontract under this Agreement. Subcontractors shall submit requests for authorization to release information through the Seller to the AO.

N. Software Requirement

The Seller warrants that, to the best of its knowledge and belief, software provided under this Agreement does not contain any malicious code, program, or other internal component (e.g., computer virus) which could damage, destroy, or alter software, firmware, or hardware or which could reveal any data or other information accessed through or processed by the software. Further, the Seller must immediately inform the Agreements Officer upon reasonable suspicion that any software provided hereunder may cause the harm described above.

Prohibition on Contracting for Certain Telecommunications & Video Surveillance Services or Equipment

A. Prohibitions

1. Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract/agreement to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Seller is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this article

applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

2. Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract/agreement, or extending or renewing a contract/agreement, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this article applies or the covered telecommunication equipment or services are covered by a waiver described in 48 C.F.R. § 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract/agreement.

B. Exceptions

This Article does not prohibit the Seller from providing a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements.

C. Reporting Requirement

1. In the event the Seller identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during agreement performance, or the Seller is notified of such by a subcontractor at any tier or by any other source, the Seller shall report the information in paragraph (d)(2) of this article to the Agreement Officer, unless elsewhere in this agreement are established procedures for reporting the information; in the case of the Department of Defense, the Seller shall report to the website at <https://dibnet.dod.mil>.

2. The Seller shall report the following information pursuant to subparagraph D. 1. of this Article:

a. Within one business day from the date of such identification or notification: The agreement number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

b. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this article: Any further available information about mitigation actions undertaken or recommended. In addition, the Seller shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

D. Subcontracts

The Seller shall insert the substance of this article, including this paragraph E, in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

Prohibition on Contracting For Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities

A. Prohibition

Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits Government use of any Kaspersky Lab covered article. The Seller is prohibited from-

(1) Providing any Kaspersky Lab covered article that the Government will use on or after October 1, 2018; and

(2) Using any Kaspersky Lab covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the agreement.

B. Reporting requirement

(1) In the event the Seller identifies a Kaspersky Lab covered article provided to the Government during agreement performance, or the Seller is notified of such by a subcontractor at any tier or any other source, the Seller shall report, in writing, to the Agreement Officer or, in the case of the Department of Defense, to the website at <https://dibnet.dod.mil>.

(2) The Seller shall report the following information pursuant to paragraph (c)(I) of this article:

(i) Within 3 business days from the date of such identification or notification: the agreement number; the order number(s), if applicable; supplier name; brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the report pursuant to paragraph (c)(I) of this article: any further available information about mitigation actions undertaken or recommended. In addition, the Seller shall describe the efforts it undertook to prevent use or submission of a Kaspersky Lab covered article, any reasons that led to the use or submission of the Kaspersky Lab covered article, and any additional efforts that will be incorporated to prevent future use or submission of Kaspersky Lab covered articles.

C. Subcontracts.

The Seller shall insert the substance of this article, including this paragraph (d), in all subcontracts including subcontracts for the acquisition of commercial products or commercial services.

Taxes

A. Federal, State, and Local Taxes

(a) As used in this clause-

After-imposed Federal tax means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

After-relieved Federal tax means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

All applicable Federal, State, and local taxes and duties means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

Contract date means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b)(1) The contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be-

(i) Included in the contract price; nor

(ii) Reimbursed.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

B. Tariffs and Other Related Charges

(a) Profit, fee, and/or indirect costs being placed on top of a proposed or incurred tariff is prohibited.

(b) If submitting a proposal or invoice that includes tariff pricing or costs, the vendor shall submit the following information:

1. The Contractor's name, address, and Commercial and Government Entity (CAGE) code;
2. Solicitation/contract number and, if applicable, delivery order number;
3. Date of the scheduled delivery (for proposal purposes) or actual delivery (for invoice purposes) under the prime contract or delivery order;
4. Foreign supplier's name and address;
5. Total dollar value of the subcontract for foreign supplies;
6. Date of the scheduled delivery (for proposal purposes) or actual delivery (for invoice purposes) under the subcontract for foreign supplies;
7. For each item, include-
 - i. The items declared value when imported,
 - ii. Tariff applied (in dollars),
 - iii. Tariff percentage applied or fixed amount per unit of measure,

iv. Country of origin, and

v. Trade Agreements impacted the tariffed amount, if applicable.

(c) The vendor must insert the substance of this clause in all subcontracts for-

a. Qualifying country components; or

b. Nonqualifying country components for which the Contractor estimates that duty will exceed \$200 per unit;

DFARS 252.225-7009 – Restriction on Acquisition of Certain Articles Containing Specialty Metals (JAN 2023)

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

“Alloy” means a metal consisting of a mixture of a basic metallic element and one or more metallic, or non-metallic, alloying elements.

(i) For alloys named by a single metallic element (e.g., titanium alloy), it means that the alloy contains 50 percent or more of the named metal (by mass).

(ii) If two metals are specified in the name (e.g., nickel-iron alloy), those metals are the two predominant elements in the alloy, and together they constitute 50 percent or more of the alloy (by mass).

“Assembly” means an item forming a portion of a system or subsystem that—

(i) Can be provisioned and replaced as an entity; and

(ii) Incorporates multiple, replaceable parts.

“Commercial derivative military article” means an item acquired 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.

“Commercially available off-the-shelf item”—

(i) Means any item of supply that is -

(A) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under this contract or a 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 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

“Component” means any item supplied to the Government as part of an end item or of another component.

“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. The term does not include structural or mechanical parts of an assembly containing an electronic component, and does not include any high performance magnets that may be used in the electronic component.

“End item” means the final production product when assembled or completed and ready for delivery under a line item of this contract.

“High performance magnet” means a permanent magnet that obtains a majority of its magnetic properties from rare earth metals (such as samarium).

“Produce” means—

- (i) Atomization;
- (ii) Sputtering; or
- (iii) Final consolidation of non-melt derived metal powders.

“Qualifying country” means any country listed in the definition of “Qualifying country” at [225.003](#) of the Defense Federal Acquisition Regulation Supplement (DFARS).

“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.

“Steel” means an iron alloy that includes between .02 and 2 percent carbon and may include other elements.

“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) *Restriction.* 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.

(c) *Exceptions.* The restriction in paragraph (b) of this clause does not apply to—

(1) Electronic components.

(2)(i) Commercially available off-the-shelf (COTS) items, other than—

(A) Specialty metal mill products, such as bar, billet, slab, wire, plate, or sheet, that have not been incorporated into COTS end items, subsystems, assemblies, or components;

(B) Forgings or castings of specialty metals, unless the forgings or castings are incorporated into COTS end items, subsystems, or assemblies;

(C) Commercially available high performance magnets that contain specialty metal, unless such high performance magnets are incorporated into COTS end items or subsystems; and

(D) COTS fasteners, unless—

(1) The fasteners are incorporated into COTS end items, subsystems, assemblies, or components; or

(2) The fasteners qualify for the commercial item exception in paragraph (c)(3) of this clause.

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

(A) Specialty metals in a COTS item that was accepted without modification by the next higher tier are excepted from the restriction in paragraph (b) of this clause, 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) Specialty metals that were not contained in a COTS item upon acceptance, but are added to the COTS item after acceptance, are subject to the restriction in paragraph (b) of this clause (e.g., a special reinforced handle made of specialty metal 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 restriction in

paragraph (b) of this clause (e.g., a COTS aircraft is outfitted with a COTS engine that is not the COTS engine normally provided with the 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 restriction in paragraph (b) of this clause (e.g. - An aircraft is normally sold to the public with an option for installation kits. The Department of Defense requests a military-unique kit. The aircraft is still a COTS item, but the military-unique kit is not a COTS item and must comply with the restriction in paragraph (b) of this clause unless another exception applies).

(3) Fasteners that are commercial products, if the manufacturer of the fasteners certifies it will purchase, during the relevant calendar year, an amount of domestically melted or produced 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 percent 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) Specialty metals for which the Government has determined in accordance with DFARS [225.7003-3](#) that specialty metal melted or produced in the United States, its outlying areas, or a qualifying country cannot be acquired as and when needed in—

(i) A satisfactory quality;

(ii) A sufficient quantity; and

(iii) The required form. In accordance with 10 U.S.C. 4863(m)(4), the term “required form” in this clause refers to the form of the mill product, such as bar, billet, wire, slab, plate, or sheet, in the grade appropriate for the production of a finished end item to be delivered to the Government under this contract; or a finished component assembled into an end item to be delivered to the Government under this contract.

(6) End items containing a minimal amount of otherwise noncompliant specialty metals (i.e., specialty metals not melted or produced in the United States, an outlying area, or a qualifying country, that are not covered by one of the other exceptions in this paragraph (c)), if the total weight of such noncompliant metals does not exceed 2 percent of the total weight of all specialty metals in the end item, as estimated in good faith by the Contractor. This exception does not apply to high performance magnets containing specialty metals.

(d) *Compliance for commercial derivative military articles.*

(1) As an alternative to the compliance required in paragraph (b) of this clause, the Contractor may purchase an amount of domestically melted or produced 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, if—

(i) The Contracting Officer has notified the Contractor of the items to be delivered under this contract that have been determined by the Government to meet the definition of “commercial derivative military article”; and

(ii) For each item that has been determined by the Government to meet the definition of “commercial derivative military article,” the Contractor has certified, as specified in the provision of the solicitation entitled “Commercial Derivative Military Article—Specialty Metals Compliance Certificate” (DFARS [252.225-7010](#)), that the Contractor and its subcontractor(s) will enter 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 each commercial derivative military article and the related commercial article, that is not less than the Contractor’s good faith estimate of the greater of—

(A) An amount equivalent to 120 percent 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

(B) An amount equivalent to 50 percent of the amount of specialty metal that will be 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.

(2) For the purposes of this alternative, the amount of specialty metal that is required to carry out production of the commercial derivative military article includes specialty metal contained in any item, including COTS items.

(e) *Subcontracts.*

(1) The Contractor shall exclude and reserve paragraph (d) and this paragraph (e)(1) when flowing down this clause to subcontracts.

(2) The Contractor shall insert paragraphs (a) through (c) and this paragraph (e)(2) of this clause in subcontracts, including subcontracts for commercial products, that are for items containing specialty metals to ensure compliance of the end products that the Contractor will deliver to the Government. When inserting this clause in subcontracts, the Contractor shall—

(i) Modify paragraph (c)(6) of this clause only as necessary to facilitate management of the minimal content exception at the prime contract level. The minimal content exception does not apply to specialty metals contained in high-performance magnets; and

(ii) Not further alter the clause other than to identify the appropriate parties.

(End of clause)

DFARS 252.225-7052 – Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten (MAY 2024)

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

“Assembly” means an item forming a portion of a system or subsystem that—

(1) Can be provisioned and replaced as an entity; and

(2) Incorporates multiple, replaceable parts.

“Commercially available off-the-shelf item”—

(1) Means any item of supply that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in section 2.101 of the Federal Acquisition Regulation);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under this contract or a subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

“Component” means any item supplied to the Government as part of an end item or of another component.

“Covered country” means—

(1) The Democratic People’s Republic of North Korea;

(2) The People’s Republic of China;

(3) The Russian Federation; or

(4) The Islamic Republic of Iran.

“Covered material” means—

(1) Samarium-cobalt magnets;

(2) Neodymium-iron-boron magnets;

(3) Tantalum metals and alloys;

(4) Tungsten metal powder; and

(5) Tungsten heavy alloy or any finished or semi-finished component containing tungsten heavy alloy.

“Electronic device” means an item that operates by controlling the flow of electrons or other electrically

charged particles in circuits, using interconnections such as resistors, inductors, capacitors, diodes, switches, transistors, or integrated circuits.

“End item” means the final production product when assembled or completed and ready for delivery under a line item of this contract.

“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.

“Tungsten heavy alloy” means a tungsten base pseudo alloy that—

(1) Meets the specifications of ASTM B777 or SAE-AMS-T-21014 for a particular class of tungsten heavy alloy; or

(2) Contains at least 90 percent tungsten in a matrix of other metals (such as nickel-iron or nickel-copper) and has density of at least 16.5 g/cm³).

(b) *Restriction.*

(1) Except as provided in paragraph (c) of this clause,—

(i) Effective through December 31, 2026, the Contractor shall not deliver under this contract any covered material melted or produced in any covered country, or any end item, manufactured in any covered country, that contains a covered material (10 U.S.C. 4872).

(ii) Effective January 1, 2027, the Contractor shall not deliver under this contract any covered material mined, refined, separated, melted, or produced in any covered country, or any end item, manufactured in any covered country, that contains a covered material (section 854, Pub. L. 118-31; 10 U.S.C. 4872).

(2)(i)(A) Effective through December 31, 2026, for samarium-cobalt magnets and neodymium-iron-boron magnets, this restriction includes—

(1) Melting samarium with cobalt to produce the samarium-cobalt alloy or melting neodymium with iron and boron to produce the neodymium-iron-boron alloy; and

(2) All subsequent phases of production of the magnets, such as powder formation, pressing, sintering or bonding, and magnetization.

(B) Effective January 1, 2027, for samarium-cobalt magnets this restriction includes the entire supply chain from mining or production of a cobalt and samarium ore or feedstock, including recycled material, through production of finished magnets.

(ii) The restriction on melting and producing of samarium-cobalt magnets is in addition to any applicable restrictions on melting of specialty metals if the clause at [252.225-7009](#) , Restriction on Acquisition of Certain Articles Containing Specialty Metals, is included in the contract.

(3) Effective January 1, 2027, for neodymium-iron-boron magnets, this restriction includes the entire supply chain from mining of neodymium, iron, and boron through production of finished magnets.

(4)(i) Effective through December 31, 2026, for production of tantalum metals of any kind and alloys, this restriction includes the reduction or melting of any form of tantalum to create tantalum metal including unwrought, powder, mill products, and alloys. The restriction also covers all subsequent phases of production of tantalum metals and alloys.

(ii) Effective January 1, 2027, for production of tantalum metals of any kind and alloys, this restriction includes mining or production of a tantalum ore or feedstock, including recycled material, through production of metals of any kind and alloys.

(5)(i) Effective through December 31, 2026, for production of tungsten metal powder and tungsten heavy alloy, this restriction includes—

(A) Atomization;

(B) Calcination and reduction into powder;

(C) Final consolidation of non-melt derived metal powders; and

(D) All subsequent phases of production of tungsten metal powder, tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy.

(ii) Effective January 1, 2027, for production of tungsten metal powder, tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy, this restriction includes mining or

production of a tungsten ore or feedstock, including recycled material, through production of tungsten metal powders, tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy.

(c) *Exceptions.* This clause does not apply—

(1) To an end item containing a covered material that is—

(i) A commercially available off-the-shelf item, other than—

(A) A commercially available off-the-shelf item that is—

(1) 50 percent or more tungsten by weight effective through December 31, 2026; or

(2) 50 percent or more covered material by weight effective January 1, 2027;

(B) Effective through December 31, 2026, a tantalum metal, tantalum alloy, or tungsten heavy alloy, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component;

(ii) Effective January 1, 2027, a covered material that is a mill product, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component;

(iii) An electronic device, unless otherwise specified in the contract; or

(iv) A neodymium-iron-boron magnet manufactured from recycled material if the milling of the recycled material and sintering of the final magnet takes place in the United States.

(2) If the authorized agency official concerned has made a nonavailability determination, in accordance with section [225.7018-4](#) of the Defense Federal Acquisition Regulation Supplement, that compliant covered materials of satisfactory quality and quantity, in the required form, cannot be procured as and when needed at a reasonable price.

(i) For tantalum metal, tantalum alloy, or tungsten heavy alloy, the term “required form” refers to the form of the mill product, such as bar, billet, wire, slab, plate, or sheet, in the grade appropriate for the production of a finished end item to be delivered to the Government under this contract; or a finished component assembled into an end item to be delivered to the Government under the contract. (ii) For samarium-cobalt magnets or neodymium-iron-boron magnets, the term “required form” refers to the form and properties of the magnets.

(d) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in subcontracts and other contractual instruments that are for items containing a covered material, including subcontracts and other contractual instruments for commercial products, unless an exception in paragraph (c) of this clause applies. The Contractor shall not alter this clause other than to identify the appropriate parties.

(End of clause)