

**CUSTOMER CONTRACT REQUIREMENTS
AWACS
CUSTOMER CONTRACT F19628-97-C-0112**

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. 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 (JUL 1995). 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 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.

52.203-10 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. In paragraph (d), the term “Government” shall mean Buyer.

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991). By signing and returning its solicitation response, Seller is executing the certification included in this clause. The certification required by this clause applies only if this contract exceeds \$100,000.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JAN 1997). This clause applies only if this Contract exceeds \$100,000. Paragraph (c)(4) is modified to read as follows: "(c)(4) 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.

52.211-5 Material Requirements (OCT 1997). Any notice will be given to Buyer rather than the Contracting Officer.

52.211-15 Defense Priority and Allocation Requirements (SEP 1990). This clause is applicable if a priority rating is noted in this contract.

52.215-2 Audit and Records - Negotiation (JAN 1997). 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.

52.215-10 Price Reduction For Defective Cost or Pricing Data (OCT 1997). This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. In subparagraph (3) of paragraph (a), insert "of this contract" after "price or cost." In Paragraph (c), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Paragraphs (c)(1), (c)(1)(ii), and (c)(2)(i), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Subparagraph (c)(2)(i)(A), delete "to the Contracting Officer." In Subparagraph (c)(2)(ii)(B), "Government" shall mean "Government or Buyer." In Paragraph (d), "United States" shall mean "United States or Buyer."

52.215-12 Subcontractor Cost or Pricing Data (OCT 1997). This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. The certificate required by paragraph (b) 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 "The Boeing Company or any of its wholly owned subsidiaries."

52.215-15 Pension Adjustments and Asset Reversions (DEC 1996). This Clause applies to this contract if it meets the requirements of FAR 15.408(g).

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB) (OCT 1997). This Clause applies to this contract if it meets the requirements of FAR 15.408(j).

52.215-19 Notification of Ownership Changes (OCT 1997). This Clause applies to this contract if it meets the requirements of FAR 15.408(k).

52.215-27 Termination of Defined Benefit Pension Plans (SEP 1989). This Clause applies to this contract if it meets the requirements of FAR 15.804-8(e).

52.219-8 Utilization of Small Business Concerns (JUN 1997).

52.219-9 Small Business Subcontracting Plan (MR 1996). In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$500,000. 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 (subparagraph (b)(1) through (11)) (FEB 1999).

52.222-35 Equal Opportunity for Special Disabled, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001). 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 (DEC 2001). This clause applies only if this contract exceeds \$25,000.

52.223-3 Hazardous Material Identification and Material Safety Data (JAN 1997). This clause applies only if Seller delivers hazardous material under this contract.

52.225-10 Duty-free Entry (APR 1984). This clause applies only if this contract identifies supplies to be afforded duty-free entry or if foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States. For the purposes of this clause, the blanks in paragraph (g)(3) are completed as follows: UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE, Duty-free entry is claimed pursuant Section XXII, Chapter 98, Subchapter VIII, Item No. 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at port of entry, the importer or authorized agent will notify Commander, Defense Contract Management Area Operations (DCMAO, New York, 201 Varick Street, New York, New York, 10014-4811, Attention DCRN-NCT) for execution of Customs Forms 7501, 7501-A, or 7506 and required duty free entry certificates.

52.225-11 Restrictions on Certain Foreign Purchases (OCT 1996).

52.227-1 Authorization and Consent (JUL 1995).

52.227-12 Patent Rights - Retention by the Contractor (Long Form) (JAN 1997). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.

52.228-4 Worker's Compensation and War-Hazard Insurance Overseas (APR 1984).

52.228-5 Insurance - Work on a Government Installation (JAN 1997). Seller shall provide and maintain insurance as set forth in this contract.

52.230-6 Administration of Cost Accounting Standards (NOV 1999). Add "Buyer and the" before "Contracting Officer in paragraph (f). This provision applies if Clause H001, H002 or H004 is included in Buyer's contract.

52.237-2 Protection of Government Buildings, Equipment, and Vegetation (APR 1984). This clause applies only if work will be performed on a Government installation. "Contracting Officer" shall mean Buyer.

52.242-15 Stop Work Order (AUG 1989). 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 (OCT 1995)

52.245-2 Government Property (Fixed Price Contracts) (MAY 2004). This clause is not applicable if this contract incorporates Form GP4. "Government" shall mean Government throughout except the first time it appears in paragraph (f) when "Government" shall mean the Government or the Buyer.

52.245-17 Special Tooling (MAY 2004). This clause applies only if tooling is acquired for or furnished by the Government and to be retained for use by the Seller.

52.245-18 Special Test Equipment (FEB 1993). Change "30 days" to "45 days" in paragraph (b) and (c). The notice of intent to procure special test equipment required by this clause shall be forwarded to the Buyer.

2. 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)) (JUN 1997). 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".

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

252.209-7000 Acquisition From Subcontractors Subject to On-site Inspection Under the Intermediate-Range Nuclear Forces Treaty (NOV 1995). This clause applies only if this contract exceeds \$100,000 and does not apply to the purchase of commercial items or commercial components.

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

252.215-7000 Pricing Adjustments (DEC 1991). This clause applies only if this contract exceeds \$500,000.

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

252.225-7009 Duty-free Entry — Qualifying Country Supplies (End Products and Components) (AUG 2000).

252.225-7010 Duty-free Entry — Additional Provisions (AUG 2000). This clause applies in addition to FAR 52.225-10. The required information will be furnished upon request.

252.225-7012 Preference for Certain Domestic Commodities (SEP 1997).

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.

252.227-7015 Technical Data - Commercial Items (NOV 1995). This clause applies only if the delivery of data is required for commercial items under this contract.

252.227-7019 Validation of Asserted Restrictions - Computer Software (JUN 1995). This clause applies only if computer software may be originated, developed, or delivered under this contract.

252.227-7027 Deferred Ordering of Technical Data or Computer Software (APR 1988). This clause applies only if technical data or computer software may be generated as part of the performance of this contract.

252.227-7030 Technical Data - Withholding of Payment (OCT 1988). 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.

252.227-7036 Declaration of Technical Data Conformity (JAN 1997). This clause applies only if the delivery of data is required by 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). 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.

252.247-7023 Transportation of Supplies by Sea (NOV 1995). 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.

252.249-7002 Notification of Anticipated Contract Terminations or Reduction (DEC 1996). This clause applies only if this contract is \$500,000 or more. Seller will comply with the notice and flowdown requirements of paragraph (d)(2) of the referenced clause.

3. 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:

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)) (FEB 1999).

52.222-35 Equal Opportunity for Special Disabled, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001). 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.

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 August 1992.

(2) (Applicable if this contract incorporates clause H002). The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause H002 is the version dated November 1993.

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

A. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

Seller shall provide immediate notice to Buyer in the event of being debarred suspended, or proposed for debarment by any Federal Agency during the performance of this Contract.

B. HEALTH AND SAFETY ON GOVERNMENT INSTALLATIONS (Applies only work is performed on a Government installation)

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

- (a) Comply with the specific health and safety requirements established by this contract;
- (b) Comply with the health and safety rules of the Government installation that concern related activities not directly addressed in this contract;

(c) 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

(d) Take such additional immediate precautions as the contracting officer may reasonably require for health and safety purposes.

(2) 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.

(3) 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.

C. The following NATO clauses are required by the prime contract:

1. EXPORT OF TECHNOLOGY

In the event that any participating Government does not provide to the Seller written approval of Manufacturing License and Technical Assistance Agreements and any other licenses, export or import licenses, visas, resident permits, work permits, or other similar governmental actions or approvals necessary:

(1) to perform this contract;

(2) to export from or to deliver to NAPMO any items involved in the performance of this contract; or (3) to permit the Seller and its subcontractors to contract with their Euro-Canadian subcontractors (at any tier) consistent with the performance and delivery schedules of this contract; an equitable adjustment shall be negotiated pursuant to the "Changes" clause hereof.

2. RIGHTS OF PARTICIPATING NATO GOVERNMENTS TO AUDIT REPORTS

Seller agrees that NAPMO may receive from the Contracting Officer reports of audit of the Contractor/Seller and subcontractors, derived pursuant to the clause titled, "Audit and Records - Negotiation." The Seller shall identify proprietary or sensitive data and/or information in source documentation for the aforementioned audit reports.

3. DISALLOWANCE OF OVERCEILING IR&D AND B&P COSTS

The recovery of overceiling IR&D and B&P costs for the NATO Mid-Term and any follow-on Production and Retrofit Program will not be charged.

4. SUBCONTRACT MANAGEMENT/CONSENT

a. Prior to the award of a subcontract to a Euro-Canadian subcontractor, Seller shall notify the appropriate Contracting Officer. This notification shall comply with the requirements of paragraph (c) of FAR 52.244-1, "Subcontracts - Fixed Price Contracts."

b. The Contracting Officer reserves the right to review and consent to all Euro-Canadian subcontracts prior to award of definitive instruments. Consent by the Contracting Officer to any such subcontract or any provisions thereof shall not be construed to be a determination of the acceptability of any critical subcontract price or of any amount paid under any critical subcontract or to relieve the Seller of any responsibility for performing this contract, unless such consent specifically provides otherwise.

c. It is contemplated that the Contracting Officer's review of Euro-Canadian subcontracts may include participation by the NAPMO staff and representatives of the respective host government as well as the particular Euro-Canadian subcontractor in order to assure full understanding by all of the above of the terms, conditions, special requirements and contract administration arrangements which pertain to this contract. The review will include:

- (i) Flowdown of all contract clauses required by this purchase contract.
- (ii) Verification that the Euro-Canadian subcontract has been priced in accordance with national pricing regulations as defined by the applicable National Audit Authority.
- (iii) Verification that the audit findings of the applicable National Audit Authority have been utilized in the negotiated agreement for each subcontract.

5. CUSTOMS AND DUTIES

a. This contract contains no provisions or costs for customs or duties imposed by those countries identified in paragraph d. below. In the event a foreign country imposes such customs, duties or similar charges, Seller's incurred costs are reimbursable to Seller. Reimbursement shall be limited to those Seller incurred costs, including applicable overhead and G&A expense, but excluding profit. The contract price will be increased accordingly.

b. The NAPMO, acting on behalf of NATO shall enjoy the privileges of exemption from taxes, customs, duties, and quantitative restrictions on imports and exports in respect of any item or aspect of the Programs as set out in Articles IX and X of the Agreement on the status of the North Atlantic Treaty Organization, National Representatives and International Staff (Ottawa, 20 September 1951). Identifiable taxes, customs, duties or other charges levied by any participating nation in connection with the activities covered by this arrangement will be borne by the government of the participating nation, either directly or by waiver or by an appropriate increase of that participating nation's contribution.

c. Taxes levied by non-participating nations and not waived by them will be borne by NAPMO.

d. The countries contemplated by paragraph a. are: Belgium, Luxembourg, Canada, Denmark, Germany, Greece, Italy, The Netherlands, Norway, Portugal, Spain, Turkey and United Kingdom

e. Paragraph a. through d. of this Special Contract Requirement shall be inserted verbatim in all subcontracts and purchase orders awarded by the Seller in all cases where such taxes and customs duties would otherwise apply.

6. DATA (Applicable only if technical data will be delivered.)
- a. FAR/DFARS - Application and Definitions: This contract includes DFARS 252.227-7013 "Rights in Technical Data - Noncommercial Commercial Items" and DFARS 252.227-7014, "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation." The definitions set forth therein shall apply in this clause. In addition, "Operation" means the use of an E-3 AWACS AEW System for its intended purpose, and "Support" means Organizational Intermediate, and Depot Level Maintenance, as well as Engineering Analysis of the E-3 AWACS AEW System.
- b. Provision/Furnishment of Technical Data. Boeing, as the manufacturer and supplier of the E-3 AWACS AEW System, has an interest in ensuring that its customers receive the full use and benefit of their purchase over its useful life. NAPMO, as an owner and operator of a fleet of E-3 AWACS AEW Systems, has an interest in ensuring that its Operation and Support of those Systems will not be impeded by a lack of necessary technical data.
- c. Identification of Technical Data. Consequently, the parties have attempted to identify technical data which NAPMO will need for fleet Operation and Support, and to specify that technical data in the list of technical data which is to be delivered under this contract. The parties recognize that it may not be possible at the time of contracting to anticipate each and every need for technical data NAPMO may experience over the term of this contract. Accordingly, the parties agree that if NAPMO needs Seller or subcontractor proprietary technical data for Operation or Support, Seller or its subcontractors may provide such technical data under the provisions of DFARS 252.227-7013, "Rights in Technical Data and Computer Software," as limited rights technical data. Similarly, non-proprietary technical data may be provided as unlimited rights technical data.

d. Data Disclosure Policy. The parties recognize that such technical data may be subject to the provisions of the Export Administration Act of 1979 (50 USC 2401-2420) and the Export Administration Regulations promulgated thereunder (15 CFR 768-799), and the Arms Export Control Act (22 USC 2778), and the International Traffic in Arms Regulations (22 CFR 120-1228 and 130). The parties acknowledge that these statutes and regulations impose restrictions on import, export and transfer to third countries of certain categories of data, that licenses from the U.S. Department of State and/or the U.S. Department of Commerce may be required before such data can be disclosed hereunder, and that such license may impose further restrictions on use and further disclosure of such data.

e. Flow Down Provisions. Seller shall undertake to insert the provision of this clause in all subcontracts and purchase orders requiring delivery of technical data. In the event a subcontractor refuses to accept any of such provisions, Seller shall use reasonable efforts to negotiate provisions which are most nearly equivalent.

7. TIME AND MATERIALS CONTRACT LINE ITEM IMPLEMENTATION

(Applicable to CLINs/SubCLINs 0005, 0007, 0008, 0018, 0021, 0029, 1005, 100501, 3001, 3002, 4001AA, and 4001AB.)

Notwithstanding any other contract provisions, the Seller shall maintain sufficient accounting records for verification of the hours, categories of labor, material costs, equipment costs and travel costs incurred in the performance of this contract. It is further understood and agreed that these accounting records shall be available for Government review by national audit agencies during the performance of the contract. Subcontractor National Audit Authorities shall review all subcontractor Time and Material (T&M) invoices and shall certify to the accuracy of the invoices in accordance with the subcontractor's national audit laws, policies, and procedures. A copy of the certification shall be provided to the Buyer.

8. RECOVERY OF NAPMO'S PRO RATA SHARE OF NONRECURRING COSTS ON FOREIGN COMMERCIAL SALES

a. In the event the Seller or its subcontractors, intends to enter into foreign commercial sales or license agreements for the items developed under this contract or essentially similar items, it shall promptly notify the Buyer and the Boeing Buyer.

(i) The phrase "foreign sales or license agreements" includes all sales to or license agreements with foreign buyers that are subject to the Arms Export Control Act, including foreign governments and international organizations, directly by the U.S. domestic firms.

b. The Seller agrees that his rights to enter into production for foreign sales of the items or essentially similar items are expressly contingent upon compliance with the provisions of this clause.

c. The Seller further agrees to flow-down this clause, substantially as written, in all NATO Mid Term Long Lead and PAR subcontracts. The Seller's obligations will be limited to reporting to the NAPMO such foreign commercial sales or license agreements that applicable subcontracts enter into. The NAPMO will be responsible for recoupment of any amount or amounts due directly from such subcontractors.

9. MID-TERM EMD ACCEPTANCE (Clause 49 of the prime contract)

a. Final Government acceptance of the SubCLINs listed in paragraph "b." below, does not relieve the Seller from its overall FCA/PCA requirements. Each successfully completed and accepted SubCLIN effort will be considered Contractor Furnished Property (CFP) or Contractor Furnished Data (CFD), for subsequent contract performance. Notwithstanding any other provisions of this contract, the Government shall not take possession of any contract deliverable produced under CLIN 0001 until completion of SubCLIN 0001AL, "Systems FCA and PCA." The Seller shall make available for Government inspection any contract products which have been certified as complete in accordance with acceptance criteria for each CLIN 0001 SubCLIN. The DD250 for SubCLIN 0001AL, "System FCA and PCA," shall contain a list of all CLIN 0001 deliverables to the Government.

b. Acceptance of each CLIN 0001 EMD SubCLIN shall be made only after completion of the acceptance criteria for each SubCLIN, defined as evidence of completion criteria. The Seller must meet all SubCLIN acceptance criteria to receive full payment for an individual SubCLIN. All payments made under the provisions contained herein, for the completed efforts termed Seller furnished property or data, shall be recoverable under the terms of the "Progress Payments" clause, FAR 52.232-16, if this contract is terminated under the provisions of the "Default" clause, FAR 52.249-8.

c. The Seller shall certify, on a Certificate of Conformance (COC), that SubCLIN acceptance criteria have been completed, and the Seller shall submit to the cognizant Administrative Boeing Buyer (ACO) and Boeing each COC for review and approval prior to Government acceptance. The Government reserves the right to participate in any Seller conducted demonstrations and/or reviews which support acceptance of EMD SubCLINs. The Seller shall provide for Government review and verification of all technical data and/or financial documentation which provides evidence of completion of the EMD SubCLINs.

NATO MID-TERM PAR PLANNED EXPENDITURE PROFILE BY
CALENDAR YEAR (TY U.S. Dollars Equivalents in Millions)

d. EPA Determination

(1) The forecast annual index rate is subtracted from the actual annual index rate using the same calendar year for both. The difference is divided by the forecast annual index rate. The result determines whether an adjustment is to be made for the calendar year. If the difference is greater than plus or minus the "trigger band" of .01 (one percent), adjustment is calculated as described in the following paragraphs. No adjustment is made if either the result is less than or equivalent to .01 or the result is greater than .01 but the calculation yields less than \$10,000.

Mechanics to Calculate EPA Adjustment (SIC ECISW372INS, Aircraft Industry, White Collar Workers Example):

Where X Actual Annual Index (Bureau of Labor Statistics (SIC ECIWSW372INS, applicable year)

Y Forecast Annual Index (Annual Index forecast in contract, applicable project and year)

Z Sum of dollars subject to adjustment (Planned Expenditure Profile, applicable cost element and year)

Step 1: Calculation for SIC SCIWSW372INS Labor: $(x - y)$

200X Actual Annual Index 1.110

200X Forecast Annual Index 1.150

-.040

The forecast values shall be calculated to the same number of decimal places as used by the BLS for reported actual annual indexes.

Step 2: Calculation for "Trigger Band": $(x - y)/y$

1.110-1.150 .035

1.150

If the difference is greater than plus or minus .01, adjustment is calculated using three decimal places as described in the following paragraphs. If the difference is less than or equivalent to .01, no adjustment is made.

Step 3: Labor Adjustment: $[(x-y)/y](z)$

Planned Expenditure Profile

Cost Element Index 200X

Labor (SIC ECIWSW372INS) \$75,000,000

Exclusion of price elements are referenced in d.(1) and (2)

-.035(75,000,000) \$2,625,000 Adjustment for SIC ECIWSW372INS

(2) EPA adjustments under this clause shall be based on actual annual index values. The Seller shall submit a proposal for appropriate adjustment for the NATO MID-TERM PAR Project under this clause for each calendar year of the Planned Expenditure Profile by 30 April of the claim year or within thirty (30) days after the release of the actual annual index values. This proposal shall cover the applicable U.S. subcontractors only.

(3) If actual annual index values have not been promulgated within one (1) year after the end of the pertinent Planned Expenditures Profile calendar year, preliminary annual index values shall be used and the proposal will be submitted within sixty (60) days after the end of the said claim year. The EPA adjustments agreed to by both parties shall be identified in this provision as set forth in a supplemental agreement to the contract. In the event the contract price is increased/decreased as the result of EPA adjustment, the price of the next CLIN or SubCLIN to be delivered will be modified to include the applicable EPA adjustment(s). If the actual annual index values are different from the preliminary annual index values, there will be a retroactive adjustment which will be reflected in a subsequent supplemental agreement. However, if the amount of the potential retroactive adjustment is \$1,000 or less, then no retroactive adjustment will take place. Any retroactive adjustment to actual annual index values used will not be cause for further adjustment under this clause. The Boeing Buyer reserves the right to initiate an Economic Price Adjustment under this clause if the Seller fails to initiate such action. Claims not initiated in the time frames above by either the Seller or the Boeing Buyer will not be considered.

b. Annual Index Substitution: In the event that the preparing agency substantially revises the methodology or discontinues determining any one of the annual indexes identified in paragraphs i. and j. herein, the parties shall agree upon an appropriate substitute for the revised or discontinued annual index within ninety (90) days for use in this clause. The parties will also agree upon an appropriate substitute where preliminary annual indexes are not published in time to fulfill the requirements of paragraph d.(2) herein. If this occurs, the time frames in paragraph d.(2) above shall be extended by mutual agreement. Forecast annual index values shall not be revised to reflect improved pricing techniques, production and marketing patterns.

- c. Adjustments to target cost, target price and ceiling price shall be made as follows:
- (1) The target cost of this contract shall be adjusted by an amount equal to the sum of the adjustment defined in paragraph d. above and the EPA adjustments of all subcontracts.
 - (2) The target price of this contract shall be adjusted by the amount defined in paragraph f.(1) above, multiplied by the target price percentage in existence on the day of execution of the specific supplemental agreement.
 - (3) The ceiling price of this contract shall be adjusted by the amount defined in paragraph f.(1) above multiplied by the ceiling price percentage in existence on the day of execution of the specific supplemental agreement.

d. Termination of Contract: Should this contract be terminated in whole or in part, for any reasons, actual annual index values and the Planned Expenditure Profile(s) for the year in which the termination occurs shall be used to determine EPA adjustments. The values in the Planned Expenditure Profile(s), for the year in which the termination occurs, shall be adjusted on a pro rata basis if the termination occurs prior to December (e.g. if the termination occurs on 31 July then the Planned Expenditure Profile shall be adjusted by 7/12ths for that year).

e. EPA on Subcontract: Notwithstanding the above, the subcontract EPA clauses negotiated between the Seller and applicable EPA subcontractors shall be cause to adjust the target cost, target price and ceiling price of the contract as described in paragraph f. above. Boeing shall perform an analysis of subcontract adjustments for applicable U.S. subcontractors only and shall submit the analysis together with the adjustment proposal required in paragraph d. of this clause.

f. U.S. Subcontractors: The purpose of paragraphs a. through h. above is to provide for economic price adjustments in the U.S. economy as evidenced by the following Government reviewed indexes:

Labor SIC ECIWSW372INS, Aircraft Industry, White Collar Workers

| <u>Table</u> | <u>Telephonics</u> | <u>Telephonics</u> | Xetron |
|--------------|--------------------|--------------------|--------|
| <u>Year</u> | (IFF) | (COM) | |
| <u>Index</u> | | | |

2004
2005
2006
2007
2008

Material

| <u>Year</u> | <u>Telephonics</u> (IFF) | <u>Telephonics</u> (COM) | Xetron |
|-------------|-----------------------------|-----------------------------|--------|
|-------------|-----------------------------|-----------------------------|--------|

Index

2004
2005
2006
2007
2008

(1) All indexes shall be annual indexes by calendar year. The base year for all indexes will be adjusted to 1 January 1996. If the base year for an index is changed to any year other than 1996, then such index values shall be adjusted to an equivalent value using first trimester 1996 as the base year for the purposes of this clause. The above indexes described in paragraph i.(1) and i.(2) shall be used in all EPA clauses with U.S. subcontractors and incorporated into this clause.

(2) The indexes to be used as actual annual index rates shall be from the "Employment and Earnings" Standard Industrial Classification (SIC) series promulgated by the U.S. Department of Labor, Bureau of Labor Statistics for the series defined in paragraph j.(1) and j.(2) above, which will be supplied by the Government. No other index will be substituted without the specific permission of the Boeing Buyer.

(3) The index forecasts for use in the formula of paragraph d. of this clause are the indexes for the twelve (12) months of each calendar year.

10. COTS Licenses for Production and Retrofit (PAR) (Nov. 2002) (H.C. 69 of the prime contract)

Licenses for the following COTs products will be obtained by NAPMO for the PAR phase of the NATO Mid-Term Program and are not provided by the Seller:

| <u>Vendor</u> | <u>COTS S/W Product</u> |
|---------------|--|
| Public Domain | PERL |
| Adobe | FrameMaker |
| Enigma | Dyna Text Browser |
| GlobeTrotter | FlexLM |
| GNU | GNU gtar |
| GNU | GNU "doc++" documentation extraction program |

| | |
|--------------|---|
| Intermaphics | InterMAPhics AIRDEF1 |
| Intermaphics | InterMAPhics Development Env |
| Intermaphics | InterMAPhics Window Manager |
| Intermaphics | InterMAPhics ATC Toolkit |
| Intermaphics | InterGEO V1.4 Map Filter set, (WDBII, DTED, CADRG, VPF) (No ADRG) |
| Intermaphics | InterMAPhics Map Client |
| IST | Xdesigner |
| KDA | UIS_Datastore |
| KDA | UIS_Motif_Ctrl |
| KDA | STL |
| LMFS | Hardpack |
| Oracle | Oracle Forms & Reports (STAT) |
| Oracle | Oracle Enterprise Server |
| Rational | Rational Suite Development Studio for Unix (includes) Rational Unified Process) |
| Rational | Rational SoDA |
| Rational | Rational Rose |
| Rational | Rational Quantify |
| Rational | Rational Purify |
| Rational | Rational Apex Duo |
| Rational | Rational Ada Analyzer |
| Rational | Rational Ada TestMate |
| Rational | ClearQuest |
| Sitraka | XRT PDS |
| SSEI | IRIS |
| Sun | Sun C/C++Compiler |
| Sun | Java |
| Telelogic | DOORS |
| Telelogic | Object Team |
| TrollTech | Qt |
| Veritas | Veritas Net Backup |

11. CONSUMABLE MATERIALS FOR PAR (Nov 2002) (Clause H.C. 73 of the prime contract)

The Government will furnish all consumable items necessary to perform maintenance on the aircraft while undergoing the retrofit at the retrofit subcontractor's facilities such as light blubs, gaskets, and o-rings, filters, etc. These items will be provided in accordance with paragraph 3.0.1. of the Aircraft Maintenance Exhibit, Appendix A to the PAR SOW.

12. RECOVERY OF NAPMO'S PRO RATA SHARE OF NONRECURRING COSTS ON FOREIGN COMMERCIAL SALES

- a. In the event the Seller or its subcontractors, intends to enter into foreign commercial sales or license agreements for the items developed under this contract or essentially similar items, it shall promptly notify the Buyer and the Boeing Buyer.
- (i) The phrase "foreign sales or license agreements" includes all sales to or license agreements with foreign buyers that are subject to the Arms Export Control Act, including foreign governments and international organizations, directly by the U.S. domestic firms.
- b. The Seller agrees that his rights to enter into production for foreign sales of the items or essentially similar items are expressly contingent upon compliance with the provisions of this clause.
- c. The Seller further agrees to flow-down this clause, substantially as written, in all NATO Mid Term Long Lead and PAR subcontracts. The Seller's obligations will be limited to reporting to the NAPMO such foreign commercial sales or license agreements that applicable subcontracts enter into. The NAPMO will be responsible for recoupment of any amount or amounts due directly from such subcontractors.