AAR
OEM Supply
NewVac

TERMS and CONDITIONS
MAT-E-003-F1 REVISION 6 SEPTEMBER 2019

ARTICLE I – SPECIAL PROVISIONS

Reference to these Terms and Conditions within the body at any Purchase Contract Agreement incorporates all applicable clauses of these provisions into the contract as if individually cited therein and set forth in full text, except to the extent expressly altered in this contract. This contract is subject to Federal Acquisition Regulations (FAR) *and* the Department of Defense Federal Acquisition Supplement (DFARS) clauses as set forth in these Terms and Conditions.

Where necessary to make the context of these clauses applicable to this subcontract/order, the term "contractor" shall mean the "Seller", the term "Contract Order" shall mean the "Subcontract" or "Purchase Order", and the terms "Government" or "Contracting Officer" and equivalent phrases shall mean the "Buyer."

Acknowledgment of this order, shipment of goods or rendering on any services pursuant to this order shall be deemed an acceptance of these Terms and Conditions. No modification of or release from this order shall be binding unless agreed to in writing and specifically identified as a modification or revision to this order. These Terms and Conditions supersede any submitted by the Seller in any proposal or acknowledgment.

Documents designated by the Buyer, including supplemental terms and conditions, if any, are incorporated by reference the same as if set out in full herein.

The Seller represents, warrants, and certifies that in the performance of this subcontract, it shall comply with, when applicable, all federal, state, and local laws, and regulations including but not limited to:

1) Fair Labor Standards Act of 1938, as amended (29 USC § 201-219)
2) Occupational Safety and Health Act of 1970 (OSHA), as amended
3) False Claims Act (31 USC § 3729 et seq.) -- Civil
4) False, Fictitious or Fraudulent Claims Statutes (18 USC § 287) -- Criminal

Seller agrees to indemnify and hold the Buyer harmless to the full extent of any loss, damage, or expense incurred by the Buyer resulting from violations by the Seller or its lower tier subcontractors of any federal, state or local law or regulation.

This document is current through FAC 05-05, dated July 27, 2005. In the event that any clause is required by law, regulation, or the prime contract, to be included in this subcontract, which is not already incorporated herein, or in the event that the prime contract is modified subsequent to the effective date of this subcontract so as to modify or add any additional such clause or requirement, the Buyer agrees to enter into a modification of this subcontract to insert the substance et any such clause or requirement. If any such additional clause or requirement causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this subcontract, an equitable adjustment will

be made in the subcontract price or delivery schedule, or both, pursuant to the "Changes" clause of this subcontract.

1. PRICE

Unless otherwise indicated in the body of this order, this is a firm fixed price order. In the absence of an indication of price by the Buyer, Seller must not fill the order at a price higher than last quoted or charged to the Buyer, without the Buyer's written consent. Seller represents that the price charged for the items or services covered by this order comply with applicable Government regulations in effect at the time of order placement, sale or delivery.

The Seller also represents and warrants that its price for the goods covered by this order are no higher than the price charged to other customers for goods of the same kind, in the same quantities and under similar terms and conditions.

2. TERMS OF PAYMENT

Unless otherwise stipulated in the body of this order, Buyer will pay discountable invoices within the discount period which will be calculated from the date the materials or services are received or the date the invoice is received, whichever is later. For tooling orders, the discount period will not commence until Buyer receives and approves the parts made from the tooling. Buyer will pay non-discountable invoices within 45 days of receipt of materials, services, or the invoice whichever is later. Invoice payment is subject to proof of delivery.

3. TAXES (FAR 52.229)

If the goods furnished under this order are for resale (as indicated on the front of this order), the Buyer will pay any sales or use tax imposed on such goods after delivery. Seller will pay all other taxes imposed before delivery to the destination point, including property taxes imposed on goods for which title has passed to the Buyer.

4. CHANGES

a) The Buyer reserves the right, at any time, to change by written notification any of the following: (1) specifications, drawings, designs, and other data incorporated in this order where the items to be furnished are to be specifically manufactured for the Buyer, (2) quantity, (3) method of packaging or shipment, (4) place of delivery, (5) time of delivery, or (6) any other matters affecting this order.

b) If any change made by the Buyer causes an increase or decrease in the cost of, or the delivery of this order, Buyer shall make, in writing, an equitable adjustment in the order price or delivery schedule or both. Any claim by Seller for an adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from Seller's receipt of the change, and negotiations or adjustment in the price or delivery schedule, or both, shall not excuse the Seller from proceeding, with due diligence, to perform under the order as changed. Failure to agree to any adjustment shelf is considered a dispute within the meaning of the “Disputes” clause of these Terms and Conditions. Any action taken by the Seller which effects any provisions of this order, including price or delivery, whether or not accomplished with the concurrence of the Buyer's employees, shall not entitle Seller to an equitable adjustment in accordance with this paragraph, unless such action has been specifically directed by written notice issued by the Buyer and incorporated into this order.

5. TERMINATION (FAR 52.249)

a) The Buyer may terminate this order in whole or in part at any time upon written or telegraphic notice to the Seller. Upon such receipt of such termination, the Seller shall within ninety (90) days, comply with the directions contained in such notice and shall, as required (1) take action necessary to terminate the work as provided in the notice, minimizing costs and liabilities for the terminated work, (2) protect, preserve and deliver in accordance the Buyer's instructions any property related to the order in the Seller's possession, and (3) continue the performance of any part of the work not terminated by the Buyer.

The buyer may also, by written or telegraphic notice to the seller, terminate the whole or any part of this order for default [1] if the Seller fails to deliver items and material to perform the services required on schedule, or [2] if, at any time, reasonable grounds for insecurity arise as to the Seller's expected performance (including timely performance) within ten [10] days after the Buyers written demand for adequate assurance.

b)On termination for convenience, the Seller at the time of termination may have in stock or on firm order, completed or uncompleted items or raw, semi-processed or completed materials for use in fulfilling this order:

(1) For completed items or materials, the Buyer shall either require delivery of all or part of the completed goods and make payment at the order price or, (without taking delivery) pay the Seller the difference, if any, between the order price and the market price (if lower) at the time of termination.

(2) For uncompleted items or raw or semi-processed materials, the Buyer shall either require the Seller to deliver all or part of such goods at the portion of the order representing the stage of completion or, (without taking delivery) pay the Seller for such goods which are properly allocable to this order a portion of the order price representing the stage of completion, reduced by the higher of the market or scrap value of the goods at that stage of completion.

(3) For goods which the Seller has on firm order, the Buyer may, at its option, either take an assignment of the Seller's right under the order or pay the cost, if any, of settling or discharging the Seller's obligation under the order.

c) If the Buyer terminates all or part of this order for default under paragraph 5a above, the Buyer may procure, upon the terms and in a manner it deems appropriate, goods and services similar to those terminated. In addition, the Buyer may require the Seller to deliver any completed or uncompleted goods related to this order by agreeing to pay the Seller as specified in 5b above.

Additionally, if the Buyer terminates for default, the Seller may be liable (unless excused under paragraph 7 - Excusable Delays) for additional costs, if any, for the re-procurement of such goods and services to cover such default.

d) Payments to the Seller hereunder shall be the sole remedy available to the Seller in the event of a termination by the Buyer. Payments, and the amount of payment, if any, are subject to the approval of the Government or the Buyer's Termination Contracting Officer (TCO.)

e) The Buyer's rights and remedies under paragraphs 5a-d inclusive shall not be exclusive and are in addition to any other rights and remedies provided by law, and equity and contract, or under this order.

f) The rights of the Buyer and Seller are covered by FAR 52.249 except that the FAR "Disputes" clause shall not apply.

6. DELIVERY

Time is of the essence. The Seller shall furnish sufficient labor and management, facilities and equipment, and shall work such hours (including night shift, overtime, weekend and holiday work) as may be required to assure timely delivery. Regardless of delivery or performance in installments, the Seller's obligation is not severable. Buyer will not accept shipments sent C.O.D. without its consent and such shipments will be returned at the Seller's risk and expense.

7. WARRANTIES

a) Duration: The Seller warrants that the goods and services furnished will be free of defects in material and workmanship for a period of one (1) year or after 200 hours of operation, whichever occurs first, after the acceptance of the and item or parts thereof, by the Government, all parts furnished under this order will be free from defects in material and workmanship that will cause the item(s) to fail with the specification and all other requirements of this contract. With respect to Government-furnished property, the seller's warranty shall extend only to its proper installation, unless the Seller performs some modification or other work on such property, in which case the Seller's warranty shall extend to such modifications or other work.

b) Remedies: In the event of a breach of the Seller's warranty in paragraph (1) above, the Buyer may, at no increase (in the contract price), a) require the Seller, at the place of delivery specified in the contract (irrespective of the F.O. B. point or point of acceptance) or at the Seller's plant, to rework or replace, at the Seller's selection, defective or non-conforming supplies, or b) require the Seller to furnish at the Seller's plant such materials or parts and installation instructions as may be required to successfully accomplish the required correction. The Seller shall also prepare and furnish to the Buyer, data and reports applicable to any correction required under this clause (including revision and updating of all affected data called for under this contract) at no increase in the contract price. When supplies are returned to the Seller, the Seller shall bear the transportation costs from the place of delivery specified in the contract (irrespective of the F.O.B. point or point of acceptance) to the Seller's plant. (2) If the Buyer does not require the correction or replacement of defective or nonconforming supplies, the Buyer shall be entitled to an equitable reduction in the price of such supplies.

c) Notification: The Seller shall be notified in writing of any breach of warranty in paragraph (b) above within thirty (30) days after discovery of the defect by the Buyer. Within thirty (30) days thereafter, the Seller shall submit to the Buyer a written recommendation of the corrective action required to remedy the breach. After the notice of breach, but no later than thirty (30) days after the receipt of the Seller's recommendation for corrective action, the Buyer may in writing direct the correction or replacement as set forth in paragraph (b) above, and the Seller shall, notwithstanding and disagreement regarding the existence of a breach of warranty comply with such direction. In the event it is later determined that the Seller did not breach the warranty in paragraph (a) above, the contract price will be equitably adjusted.

d) Correction of Defects: Any supplies or parts thereof corrected or furnished in replacement pursuant to this clause shall also be subject to all the provisions of this clause and to the same extent as supplies initially delivered. The warranty with respect to such supplies or

parts thereof shall be equal in duration to that set forth in (a) above and shall run from the date of such correction or replacement.

8. EXCUSABLE DELAYS

The Seller shall not be liable for any re-procurement costs for the failure or delay in making deliveries when such failures or delay is due to any cause beyond the control and without the fault or negligence of the Seller and/or its subcontractors at any tier, provided that the Seller gives to the Buyer prompt notice, in writing, when it appears that such cause will delay deliveries under this order.

a) Such causes may include, but are not restricted to: accidents, shortages, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, lockouts, freight embargoes, and unusually severe weather, but in every case the failure to perform is beyond the control of the parties and without the fault or negligence of the Seller which prevents the Seller from delivering or the Buyer from receiving any of the goods or services specified in this order. Buyer shall suspend the deliveries until such time as the cause is removed.

b) If the failure to perform is caused by the failure of a lower tier subcontractor to perform or make progress and if such failure arises out of causes beyond the control of the Seller and the lower tier subcontractor, and without the fault or negligence of either of them, the Seller shall not be deemed in default, unless: (1) the supplies or services to be furnished by the lower tier subcontractor were obtainable from other sources, (2) Buyer had ordered the Seller in writing to procure such supplies or services from such other sources, and (3) the Seller had failed to comply reasonably with such an order.

c) Upon request of the Seller, the Buyer shall ascertain the facts and extent of such failure and, if the Buyer determines that any failure to perform was occasioned by any one or more of said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Buyer and/or the Government under paragraph 5 of these Terms and Conditions entitled "Termination."

9. SHIPPING AND RECEIVING

a) Seller shall be responsible for proper packaging, loading and tie-down of materials to prevent damage during transportation. The Buyers weight and count will be accepted as final and conclusive on all shipments not accompanied by a packing list. Seller must bill all returnable containers on a separate invoice, and return transportation charges will be collected from the Seller's account.

b) If freight is prepaid but chargeable to the Buyer under the terms of this order, Seller shall submit a copy of the freight bill.

c) In the event that this order requires the Seller to make delivery of goods direct to the Government, Seller agrees to prepare a "Material and Receiving Inspection Report' (form DD-250 or equal) in the manner and to the extent required by DFARS 52.246-7000 and the Contracting Officer, and copy is to be furnished to the Buyer.

d) If the order requires Government Source Inspection, DFARS, Appendix I applies if the goods are to be shipped to the Buyer or to any other non-Governmentinstallation.

10. INSPECTION (FAR 52.246)

a) The goods covered by this order may be subject to inspection and test by the Buyer and

the Government at all times and places and, when practicable, during the manufacturing process. The mechanics of inspection and the rights of the Buyer and Seller with respect to inspection are as specified in the Federal Acquisition Regulations.

b) All goods and services furnished hereunder are subject to the Buyer's final inspection and approval within a reasonable time after delivery, irrespective of payment date. Buyer may accept or reject goods based on the Buyer's normal Inspection Plan for the items furnished. The Buyer may reject goods not in accordance with instructions, specifications, drawings, data or Seller's warranty (expressed or implied). The Buyer may return rejected goods to the Seller at the Seller's expense and the Buyer shall have no further obligation for such goods. Payment for any article shall not be deemed acceptance and in no event shall the Buyer incur any liability for payment of rejected goods.

c) The Buyer shall have a reasonable amount of time [not less than ten (10) days from the date of receipt] to submit a claim for discrepancies of count, weight, quantity, loss or damage to delivered goods. Buyer will calculate damages on claims and deduct the amount from the Seller's invoice. If the invoice has been paid, the Seller will reimburse the Buyer the amount of the damages.

d) Seller shall assume responsibility for and will have to pay any and all costs associated with loss, damage, and other expenses, including attorney fees, and the cost of replacement incurred by the Buyer attributed to Buyer's rejection of goods due to nonconformance to specification or untimely delivery.

11. PATENTS

a) The Seller shall, at it own expense, defend any suit or proceeding brought against the Buyer, its successors and assigns, based on claim that goods or any component perils furnished hereunder infringes any U.S. or Foreign letter patents (except infringement necessarily resulting from adherence to the Buyer's drawing), providing that the Buyer notifies the Seller in writing and assists the Seller, as and if required, in defending the suit or proceeding. The Seller shall pay all damages, costs and attorney fees awarded in any suit or proceedings.

b) The Seller shall promptly report any claims of patent or copyright infringement relating to the performance of this order which comes to its attention, and shall assist, to the extent of evidence and information in its possession, in connection with any suit against the Buyer or the Government on account of alleged patent or copyright infringement (FAR 52.227-2.)

c) Except for infringement resulting from adherence to the Buyer's furnished drawings, the goods or any component parts furnished hereunder are held to infringe and their use is enjoined. The Seller shall, at its option and own expense, (1) procure for the Buyer and its successors and assigns, the right to continue using the goods, (2) replace them with a substantially equivalent non-infringement product, or (3) modify them so they become non-infringing with substantially equivalent performance. Absent (1) (2) (3), the Buyer reserves its rights at law and equity and contract, or its option may return the infringing goods to the Seller at the Seller's expense and the Seller will promptly refund the order price to the Buyer.

12. SPECIAL TOOLING AND BUYER FURNISHED PROPERTY

a) In the event that special tooling (as defined in 48 CFR 52.245-17) is required in the performance of this order and the cost of such tooling is included in the price of the end item supplied to the Buyer by the Seller, the same shall be held and used by the Seller as bailee, and shall be returned to the Buyer in the condition in which it was acquired (reasonable wear and tear expected), or disposed of as directed by the Buyer an the Buyer's account upon the completion or sooner termination of this order. Such special tooling as may be supplied to the Seller by the Buyer without charge shall be held and used by the Seller on the same terms as special tooling manufactured or acquired by the Seller. Use of such tooling shall be restricted to performance of this order unless otherwise authorized, in writing, by the Buyer.

b) All special dies, molds, patterns, jigs, fixtures, and any other property which the Buyer furnishes to the Seller or specifically pays for, for use in the performance of this order, shall be and remain the property of the Buyer, shall be subject to removal upon the Buyer's instruction, shall be for the Buyer's exclusive use, shall be held at the Seller's risk, and shall be kept insured by the Seller at the Seller's expense while in its custody or control in an amount equal to the replacement cost, with loss payment to the Buyer. The Seller shall furnish to the Buyer on demand, copies of policies or certification of insurance.

c) Nothing in this clause shall be interpreted as preventing the Seller from using such special tooling for manufacturing items for direct sale to the Government if the Government has title to or a vested interest or data rights to such special tooling. If the Seller wishes to make use of such items in connection with direct sales to the Government, the Seller shall obtain a written statement from the Buyer of the Government's title or vested interest and the Buyer shall give written authority where the Government has title or vested interest, provided that the delivery schedule under this order is not adversely affected.

13. UTILIZATION OF SMALL, SMALL DISADVANTAGED, VETERAN/SERVICE DISABLED VETERANS, WOMEN-OWNED SMALL BUSINESS, AND HUB ZONE BUSINESS CONCERNS

It is the policy of the Government as declared by Congress that a fair portion of purchases and contracts for goods and services for the Government be placed with “Small Business Concerns”, to include; Small Disadvantaged Business, Veteran and Service Disabled Veteran, Women Owned, and Hub-Zone Business concerns.

The Seller agrees to accomplish the maximum amount of subcontracting to those concerns that the Seller finds to be consistent with the effective performance of this order.

14. CUMULATIVE REMEDIES

The remedies provided in these Terms and Conditions shall be cumulative to all other rights or remedies now or hereafter given to the Buyer by law, and the Buyer may enforce one or more such remedies successively or concurrently.

15. WAIVER

Buyer's failure to insist on the Seller's strict performance to the Terms and Conditions of the order at any time shall not be construed as a waiver by the Buyer for performance in the future.

16. TITLE AND RISK OF LOSS

a) Risk of loss of all goods shall remain with the Seller until receipt of the goods at the

Buyer's location.

b) Title shall pass to the Buyer upon Buyer's acceptance of goods at the Buyer's location. If progress payments are a part of this order, title to the goods shall be transferred to the Government as of the date of this order.

c) Not withstanding restrictive legends to the contrary, title to plans, drawings and specifications for goods shall be vested in and remain with the Buyer or the Government and may be used by the Buyer or the Government for any purpose.

17. ASSIGNMENT

The Seller shall not assign, transfer, or subcontract this order or any right or obligation hereunder without the Buyer's written consent. Any purported assignment, transfer or subcontract shall be void and ineffective.

18. INDEMNITY

The Seller agrees to defend, indemnify and save the Buyer harmless against all liabilities, claims or demands whether in tort or in contract for injuries or damages to any person or property arising out of the Seller's acts or omissions in the performance of this order.

19. NONDISCLOSURES

If the Buyer discloses or grants to the Seller access to any research and development, technical, economic or other business information or "know how' of a confidential nature, whether reduced to writing or not, the Seller will not use or disclose any such information to any other person at any time, except as may be necessary in the performance of this order, without the Buyer's written consent. The Buyer shall give similar protection to the Seller providing the Seller's documents are marked or stamped with the appropriate legend to indicate protection to be afforded.

20. RESOLUTION OF CONFLICTS

It is the Seller's responsibility to comply with these and all referenced documents and to clarify with the Buyer any inconsistencies or conflicts in any part of this order, such as those provisions contained in this document, additional terms and conditions, general specifications, detailed specifications, etc. Should the Seller fail to contact the Buyer to resolve these conflicts or inconsistencies, the Seller will be solely responsible for errors resulting from those conflicts or inconsistencies.

21. DISPUTES

Except as otherwise provided in this order, any dispute not disposed of by agreement shall be finally decided by the Buyer. The Seller has no rights under the FAR Disputes clause, 52.233-1. Pending resolution of any dispute, the Seller shall proceed diligently with the performance at work in accordance with the Buyer's direction.

22. COMPLETION CERTIFICATE

At the appropriate time, the Buyer may request that the Seller furnish a certificate pertaining to deliverables, disposition of classified documents, Government and/or contractor property, final invention reports (DD Form 882), royalty fees, and releases. A blank copy of said certificate shall be furnished to the Seller by the Buyer upon request or when the Buyer determines the need for one exists.

23. SECURITY

If Form DD 254 - Security Requirements is attached hereto, the Seller shall comply with the requirements of FAR 52.204-2. If the work contracted hereunder includes research and development, FAR 52.227-10 shall apply.

24. For Contractors Providing Services for the Buyer

(Reference: International Traffic in Arms Regulation/Section 120.10 of the ITAR).

Clause 1: (*Applies where the Contractor is not required to use or evaluate the Buyer's technical data, but where the Contractor will nevertheless be exposed to or otherwise be in proximity to the Buyer's technical data. Note: This section does not apply to work to be performed outside of the United States.*)

Contractor will ensure that each individual performing this contract, who has access to the Buyer's manufacturing or technical data, is either a citizen of the United States, a lawful permanent resident as defined by 8 USC §1101(a)(20) or a protected individual as defined by 8 USC §1324(a)(3). This contract requirement is a direct result of the requirements levied on the Buyer by the U.S. Department of State through its International Traffic in Arms Regulations (22 CFR Parts 120 through 130.)

Clause 2: (*Applies where the Contractor is required to use or evaluate the Buyer's technical data. However it is not applicable where the contract services are to be performed overseas.*)

The Contractors will ensure that each individual it uses to perform the Contract is –

(i) a citizen of the United States,

(ii) a lawful permanent resident as defined by 8 USC §1101(a)(20),

(iii) a protected individual as defined by 8 USC §1324(a)(3), or

(iv) a foreign national for whom a current and directly relevant license or approval has been obtained from the US Department of State, as set forth in the International Traffic in Arms Regulations at 22 CFR Sections 120 through 130, which license or approval is directly relevant to the work to be performed under this Contract.

For those instances where Contractor is using persons who fall within the requirements of (iv), above, the Contractor shall provide the buyer with a copy of the license or approval at the time that the Contractor assigns the individual to perform any portion of the Contract.

For those instances where Contractor is using foreign nationals without a license or approval, the Contractor shall so notify the buyer and, if requested, provide the buyer with a detailed explanation of the steps undertaken to ensure that these persons are not gaining access to the buyer's technical data as prescribed at 22 CFR Section 120.10 as that term is defined in the International in Arms Regulations, at 22 CFR Section 120.

This contract requirement is a direct result of the requirements levied on the Buyer by the U.S. Department of State through its International Traffic in Arms Regulations (22 CFR Parts 120 through 130).

The Contractor will flow down this clause to those of its subcontractors who will be assigned to perform any portion of the work set forth in the "Contract."

25. SUBCONTRACTING

Seller shall not subcontract without the buyer's prior written consent for the design, development, or procurement of the whole or any substantial portion of any goods and/or services ordered hereunder. This limitation shall not apply to Seller's purchases of standard commercial supplies or raw material.

26. COUNTERFEIT PARTS PREVENTION

a) Definitions for purposes of this Contract:

(i) "Counterfeit Parts" shall mean a part, component, module, or assembly whose origin, material, source of manufacture, performance, or characteristics are misrepresented. This term includes, but is not limited to, (1) parts that have been (re)marked to disguise them or falsely represent the identity of the manufacturer, (2) defective parts and/or surplus material scrapped by the original manufacturer, and (3) previously used parts pulled or reclaimed and provided as "new."

(ii) As used herein, "authentic" shall mean (1) genuine; (2) from the legitimate source claimed or implied by the marking and design of the product offered; and (3) manufactured by, or at the behest and to the standards of, the manufacturer that has lawfully applied its name and trademark for that model/version of the material.

(iii) "Independent Distributor" shall mean a person, business, or firm that is neither authorized nor franchised by an Original Component Manufacturer ("OCM") to sell or distribute the OCM's products but which purports to sell, broker, and/or distribute such OCM products. Independent Distributors are also referred to as unfranchised distributors, unauthorized distributors, and/or brokers.

b) Seller represents and warrants that only new and authentic materials are used in products required to be delivered to Buyer and that the work delivered contains no counterfeit parts. No other material, part, or component other than a new and authentic part is to be used unless approved in advance in writing by Buyer. To further mitigate the possibility of the inadvertent use of counterfeit parts, Seller shall only purchase authentic parts/components directly from the Original Equipment Manufacturers ("OEMs")/ OCM's or through the OEM's/OCM's authorized distribution chain. Seller must make available to Buyer, at Buyer's request, OEM/OCM documentation that authenticates traceability of the components to that applicable OEM/OCM. Purchase of parts/components from Independent Distributors is not authorized unless first approved in writing by Buyer's Procurement Representative. Seller must present complete and compelling support for its request and include in its request all actions to ensure the parts/components thus procured are legitimate parts. Buyer's approval of Seller's request(s) does not relieve Seller's responsibility to comply with all Contract requirements, including the representations and warranties in this paragraph.

c) Seller shall maintain a documented system (policy, procedure, or other documented approach) that provides for prior notification and Buyer approval before parts/components are procured from sources other than OEMs/OCMs or through the OEM's/OCM's authorized distribution chain. Seller shall provide copies of such documentation for its system for Buyer's inspection upon Buyer's request.

d) If Seller is providing electronic components/devices only, the following certification applies:

Certification of Origin of Product:

- Acceptance of this Contract constitutes confirmation by Seller that it is either the Original Equipment Manufacturer (OEM), Original Component Manufacturer (OCM), or a franchised or authorized distributor of the OEM/OCM for the product herein procured. Seller further warrants that OEM/OCM acquisition documentation that authenticates traceability of the components to that applicable OEM is available upon request.
- If Seller is not the OEM/OCM or a franchised or authorized distributor, Seller confirms by acceptance of this Contract that each product supplied to Buyer has been procured from the OEM/OCM or a franchised or authorized distributor of the OEM/OCM. Seller further warrants that OEM/OCM acquisition traceability documentation is accurate and available to Buyer upon Buyer's request.

e) Seller shall flow the requirements of this provision to its subcontractors and suppliers at any tier for the performance of this Contract.

27. COMPLIANCE WITH LAW

In addition to the clauses and terms set forth in the contract/order Terms and Conditions, including those set forth above, the following clauses, as set forth in the Federal Acquisition Regulation (FAR) and the Department of Defense Federal Acquisition Supplement (DFARS), are incorporated herein and are applicable hereto by this reference except those clauses which are exempt in FAR and DFARS or in the clauses (self-deleting) because of the dollar value of this order.

All referenced FAR and DFARS paragraph numbers refer to current paragraphs and revisions in effect as of that date of the Government prime contract referenced on this order.

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Buyer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: **http://farsite.hill.af.mil/** OR **http://www.acq.osd.mil/dpap/dars/index.htm**.

ARTICLE II – GENERAL PROVISIONS

The clauses in Section 52 "Solicitation Provisions and Contract Clauses" of the FAR and the DFARS listed below state and in effect on the date of this Order are each incorporated here by this reference and made a part of this Order. In all such clauses, the term "Contractor" shall mean "Seller," the term "Contract" shall mean this "Order," and the term "Government Contracting Officer" or equivalent phrases, shall mean "Buyer" as applicable; except that in those clauses conferring patent and data rights to the Government, the term "Government" or "Contracting Officer" retains its literal meaning and is not to be construed as "Buyer." It is intended that the FAR and DFARS clauses as listed herein shall apply to Seller, and its lower tier subcontractors as applicable, in such manner as is necessary to reflect the position of Seller as a subcontractor to Buyer, to ensure Seller's obligations to Buyer and to the Government, and to enable Buyer to meet its obligations under its Prime Contract or subcontract.

Clauses in this document may not be applicable to specific orders due to the type of subcontract/purchase order to be issued, dollar thresholds under requirements of the FAR, DFARS or Public Law or Mandatory Flow Down requirements of a particular prime contract. Clauses that are not applicable are deemed self-deleting, shall not be removed from this document, and will be considered by all parties to be without force and effect. It is the Seller's obligation to contact NEWVAC, LLC regarding any confusion, ambiguity, or questions the Seller may have regarding applicability of the following clauses.

FAR CLAUSES

FAR clauses can be located "on-line" at:

https://www.acquisition.gov/far/html/FARTOCP52.html OR http://farsite.hill.af.mil/

A. APPLICABLE TO ALL ORDERS:

1. The following **FAR clauses** apply to all contracts, purchase orders, delivery orders, or any agreement between NEWVAC, LLC and the Seller where the end customer is the United States Government:

52.202-1	Definitions
52.204-2	Security Requirements
52.204-9	Personal Identify Verification of Contractor Personnel
52.211-5	Material Requirements
52.211-15	Defense Priority and Allocation Requirements
52.222-1	Notice to the Government of Labor Disputes
52.222-19	Child Labor - Cooperation with Authorities and Remedies
52.222-50	Combating Trafficking in Persons
52.222-54	Employment Eligibility Verification
52.223-3	Hazardous Material Identification and Material Safety Data
52.223-7	Notice of Radioactive Materials
52.223-11	Ozone-Depleting Substances (42 U.S.C. 7671j(b), (c) and (d) and 40 CFR Part 82, Subpart E
52.225-8	Duty Free Entry

52.225-13	Restrictions on Certain Foreign Purchases
52.227-1	Authorization and Consent
52.227-14	Rights in Data - General
52.228-3	Workers' Compensation Insurance (Defense Base Act)
52.228-4	Workers' Compensation and War-Hazard Insurance Overseas
52.228-5	Insurance-Work on a Government Installation
52.232-9	Limitation on Withholding of Payments
52.232-16	Progress Payments
52.232-16	Progress Payments (Alt I)
52.233-3	Protest After Award
52.234-1	Industrial Resources Developed Under Defense Production Act Title III
52.236-13	Accident Prevention
52.242-17	Government Delay of Work
52.243-1	Changes – Fixed Price
52.244-5	Competition in Subcontracting
52.244-6	Subcontracts for Commercial Items
52.245-1	Property Records
52.245-2	Government Property – Fixed Price Contracts (Alt. I Apr 1984)
52.247-63	Preference for U. S. Flag Air Carriers
52.247-64	Preference for Privately Owned U.S. Flag Commercial Vessels (46 U.S.C. Appx 1241 (B))
52.249-1	Termination for Convenience of the Government-(Fixed Price)(Short Form)
52.253-1	Computer Generated Forms

2. The following **DFARS clauses** apply to all contracts, purchase orders, delivery orders, or any agreement between NEWVAC, LLC and the Seller where the end customer is any agency within the United States Department of Defense:

252.203-7002	Display of DOD Hotline Poster
252.204-7000	Disclosure of Information
252.215-7000	Pricing Adjustment
252.215-7002	Cost Estimating System Requirements
252.222-7000	Restrictions on Employment of Personnel
252.223-7001	Hazard Warning Labels
252.223-7004	Drug Free Work Force
252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials
252.225.7000	Buy American Act Balance of Payments Program Certificate
252.225-7001	Buy American Act and Balance of Payments Program
252.225-7008	Restriction on Acquisition of Specialty Metals (prime contracts at $150K or more requiring delivery of specialty metals as end items)
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals (prime contracts at $150K or more; excludes para (d); see other exceptions; and compliance to 10 USC § 2533(b))
252.225-7013	Duty-Free Entry-Eligible End Products
252.225-7015	Restriction on Acquisition of Hand or Measuring Tools
252.225-7016	Restriction on Acquisition of Ball and Roller Bearings
252.225.7019	Restriction on Acquisition of Anchor and Mooring Chain
252.225-7021	Trade Agreements

252.225-7022	Restriction on Acquisition of Polyacrylontrile (PAN) Carbon Fiber
252.225-7025	Restrictions on Acquisition of Forgings
252.225.7027	Restriction on Contingent Fees for Foreign Military Sales
252.225.7028	Exclusionary Policies and Practices of Foreign Governments
252.225-7030	Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate
252.225-7031	Secondary Arab Boycott of Israel
252.225-7036	Buy American Act – Free Trade Agreements – Balance or Payments Program
252.225-7043	Antiterrorism /Force Protection for Defense Contractors outside the United States
252.225-7045	Balance of Payments Program – Construction Material Under Trade Agreements
252.227-7013	Rights in Technical Data Noncommercial Items
252.227-7016	Rights in Bid or Proposal Information
252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions
252.227-7030	Technical Data - Withholding of Payment

B. APPLICABLE TO ALL ORDERS OVER $10,000 ALSO INCLUDE THE FOLLOWING:

The following FAR clauses apply to all contracts, purchase orders, delivery orders, or any agreement valued over $10,000.00 between NEWVAC, LLC and the Seller where the end customer is the United States Government:

52.203-12	Limitations on Payments to Influence Certain Federal Transactions
52.222-20	Walsh-Healy Public Contracts Act
52.222-21	Prohibition of Segregated Facilities
52.222-26	Equal Opportunity
52.222-36	Affirmative Action for Workers with Disabilities (29 U.S.C. 793)
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (para (f) only)

C. ORDERS OVER THE SIMPLIFIED ACQUISITION THRESHOLD (SAT) ALSO INCLUDE THE FOLLOWING:

1. The following FAR clauses apply to all contracts, purchase orders, delivery orders, or agreement valued over the SAP between NEWVAC, LLC and the Seller where the end customer is the United States Government:

52.203-3	Gratuities
52.203-5	Covenant Against Contingent Fees
52.203-6	Restrictions on Subcontractor Sales to the Government
52.203-7	Anti-Kickback Procedures
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity
52.203-10	Price of Fee Adjustment for Illegal or Improper Activity
52.203-11	Certification and Disclosures Regarding Payments to Influence Certain Federal Transactions
52.215-2	Audit and Records - Negotiations
52.215-14	Integrity of Unit Prices (Alternate I)
52.219-8	Utilization of Small Business Concerns (15 U.S.C. 637(d)(2) and (3))
52.222-4	Contract Work Hours and Safety Standards Act-Overtime Compensation

52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212 (a))
52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
52.223-6	Drug Free Workplace
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement
52.229-3	Federal, State, and Local Taxes
52.242-13	Bankruptcy
52.243-6	Change Order Accounting
52.244-2	Subcontracts (Aug 1998) (Alt I)
52.246-2	Inspection of Supplies-Fixed Price
52.248-1	Value Engineering
52.249-2	Termination for Convenience of the Government – Fixed Price
52.249-8	Default – (Fixed Price Supply and Service)

2. The following DFARS clauses apply to all contracts, purchase orders, delivery orders, or any agreement valued over the SAT between NEWVAC, LLC and the Seller where the end customer is any agency within the United States Department of Defense:

252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense Contract-Related Felonies
252.209-7004	Subcontracting with firms that are owned or controlled by the Government of a Terrorist Country
252.242-7004	Material Management and Accounting System
252.247-7023	Transportation of Supplies by Sea
252.247-7024	Notification of Transportation of Supplies by Sea
252.249-7002	Notification of Anticipated Contract Termination or Reduction

D. ORDERS OVER $500,000 ALSO INCLUDE THE FOLLOWING:

The following DFARS clauses apply to all contracts, purchase orders, delivery orders, or any agreement valued over $500,000 between NEWVAC, LLC and the Seller where the end customer is any agency within the United States Department of Defense

252.219-7003	Small, Small Disadvantaged Business, and Women-Owned Small Business Subcontracting Plan (DOD Contracts)
252.225-7004	Reporting of Contract Performance Outside of the United States
252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises-and Native Hawaiian small Business Concerns

E. ORDERS OVER $650,000 ALSO INCLUDE THE FOLLOWING FAR CLAUSES:

The following FAR clauses apply to all contracts, purchase orders, delivery orders, or any agreement valued over
$650,000.00 between NEWVAC, LLC and the Seller where the end customer is the United States Government:

52.215-15 Pension Adjustments and Asset Reversions
52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions
52.215-19 Notification of Ownership Changes
52.219-9 Small Business Subcontracting Plan
52.219-16 Liquidated Damages - Subcontracting Plan

F. UNLESS OTHERWISE EXEMPT, THE FOLLOWING FAR CLAUSES ARE ALSO INCLUDED:

52.215-10 Price Reduction for Defective Cost or Pricing Data
52.215-11 Price Reduction for Defective Cost or Pricing Data - Modifications
52.215-12 Subcontractor Cost or Pricing Data
52.215-13 Subcontractor Cost or Pricing Data - Modifications
52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data
52.215-21 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data - Modification "Alternate III

G. ORDERS OVER $1,000,000 OR HIGHER INCLUDE THE FOLLOWING DFARS CLAUSES:

252.211-7000 Acquisition Streamlining
252.225.7033 Waiver of United Kingdom Levies

I. APPLICABLE TO COST REIMBURSEMENT, TIME & MATERIAL OR LABOR HOUR ORDERS:

The following FAR clauses apply to all contracts, purchase orders, delivery orders, or any agreement based upon the type of the contract, cost reimbursement, time and material, or labor hours, between NEWVAC, LLC and the Seller where the end customer is the United States Government:

52.215-16 Facilities Capital Cost of Money
52.215-17 Waiver of Facilities – Capital Cost of Money
52.216-7 Allowable Cost and Payment
52.216-8 Fixed Fee
52.222-2 Payment of Overtime Premium
52.232-20 Limitation of Cost
52.242-15 Stop-Work Order
52.243-2 Changes – Cost Reimbursement
52.249-6 Termination (Cost Reimbursement)
52.249-14 Excusable Delays

J. Certifications:

The Seller, by signing its offer and entering into an agreement with NEWVAC, LLC, hereby certifies compliance with the following clauses and is, therefore eligible for award.

52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment

K. Cost Accounting Standards (Applicable unless otherwise exempt):

52.230-1 Cost Accounting Standards Notices and Certification
52.230-2 Cost Accounting Standards
52.230-3 Disclosure and Consistency of Cost Accounting Practices
52.230-6 Administration of Cost Accounting Standards

L. Miscellaneous Clauses:

FAR CLAUSES

52.204-4 Printing/Copying Double-Sided on Recycled Paper
52.211-4053 (TACOM) Required Tailoring Language to Eliminate Class I Ozone-Depleting Substances (CIODS)
52.215-8 Order of Precedence – Uniform Contract Format
52.216-4007 (TACOM) Limitation of Government Liability
52.219-17 Section 8(a) Award
52.222-22 Previous Contracts and Compliance Reports
52.222-29 Notification of VISA Denial
52.223-3 Hazardous Material Identification and Material Safety Data
52.223-5 Pollution Prevention and Right-To-Know Information
52.223-14 Toxic Chemical Release Reporting
52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises
52.226-2 Historically Black College or University and Minority Institution Representation
52.227-16 Additional Data Requirements
52.228-7 Insurance – Liability to Third Persons
52.229-4 Federal, State, and Local Taxes (State & Local Adjustments)
52.229-5 Reserved
52.229-7 Taxes - Fixed-Price Contracts with Foreign Government
52.229-9 Taxes - Cost Reimbursement Contracts with Foreign Governments
52.232-1 Payments
52.232-8 Discounts for Prompt Payment
52.232-11 Extras
52.232-17 Interest
52.232-23 Assignment of Claims
52.232-25 Prompt Payment
52.232-33 Payment by Electronic Funds Transfer – Central Contractor Registration
52.232-34 Payment by Electronic Funds Transfer – Other Than
52.233-1 Disputes (Alternate I, dated Dec 1991)
52.242-1 Notice of Intent to Disallow Costs
52.242-2 Production Progress Reports
52.242-4 Certification of Indirect Cost
52.242-10 FOB Origin – Government Bills of Lading or Prepaid Postage
52.242-12 Report of Shipment (REPSHIP)
52.242-15 Stop-Work Order
52.242-16 Stop-Work Order-Facilities
52.243-4 Changes
52.243-5 Changes and Changed Conditions
52.243-7 Notification of Changes
52.245-4 Government Furnished Property (Short Form)
52.245-5 Government Property – Cost Reimbursement, Time and Material or Labor Hour Contracts
52.245-17 Special Tooling
52.245-18 Special Test Equipment

52.246-23 Limitation of Liability)
52.246-24 Limitation of Liability - High Value Items
52.247-1 Commercial Bill of Lading Notation
The notation set forth in paragraph (a) of the clause applies in this contract. The agency name in line one of the notation shall read: US ARMY TANK –AUTOMOTIVE & ARMAMENTS COMMAND)
52.251-1 Government Supply Sources
52.253-1 Computer Generated Forms

DFARS CLAUSES

252.204-7003 Control of Government Personnel Work Product
252.205-7000 Provision of Information to Cooperative Agreement Holders
252.206-7000 Domestic Source Restriction
252.209-7000 Reserved
252.211-7005 Substitutions for Military or Federal Specifications and Standards
252.217-7003 Changes
252.219-7004 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program)
252.225-7002 Qualifying Country Sources as Subcontractors
252.225-7005 Identification of Expenditures in the United States
252.225-7011 Restriction on Acquisition of Super Computers
252.225-7012 Preference for Certain Domestic Commodities
252.225-7014 Preference for Domestic Specialty Metals
252.225-7018 Notice of Prohibition of Certain Contracts with Foreign Entities for the Conduct of Ballistic Missile Defense Research, Development, Test, and Evaluation
252.225-7023 Restriction on Acquisition of Vessel Propellers
252.225-7038 Restriction on Acquisition of Air Circuit Breakers
252.225.7039 Reserved
252.225-7042 Authorization to Perform
252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises-and Native Hawaiian small Business Concerns
252.227-7033 Rights in Shop Drawings
252.227-7036 Reserved
252.227-7037 Validation of Restrictive Markings on Technical Data
252.228-7000 Reimbursement for War-Hazard Losses
252.231-7000 Supplemental Cost Principles
252.232-7004 DoD Progress Payment Rates
252.236-7000 Modification Proposals-Price Breakdown
252.242-7000 Post Award Conference
252.242-7003 Application for U.S. Government Shipping Documentation/Instructions
252.243-7001 Pricing of Contract Modifications
252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts)
252.245-7001 Reports of Government Property
252.246-7000 Material Inspection and Receiving Report
252.246-7001 Warranty of Data