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SUPPLEMENTAL TERMS AND CONDITIONS ATTACHED TO AND MADE A PART OF PURCHASE ORDER — COST REIMBURSEMENT

1. **GENERAL.** The terms and conditions hereinafter set forth are applicable in addition to the Standard Purchase Order Terms and Conditions (Form 40924). If there is any conflict between these Supplemental Terms and Conditions hereinafter set forth and the Standard Purchase Order Terms and Conditions, the terms and conditions hereinafter set forth shall govern.
2. **DEFINITIONS.** As used herein, "Buyer" means **Aerojet-General Corporation (Aerojet)**; "Seller" means the party identified on the face of this order; "Government" means the United States Government; "Subcontract" means either purchase order or subcontract; and "Supplies" means all articles, materials, work or services to be furnished by Seller under this order. "FAR" means Federal Acquisition Regulation and "DoD FAR Supplement" means Department of Defense Federal Acquisition Regulation Supplement as in effect on the date of this order. "Buyer's Authorized Representative" means the person or persons authorized by the Buyer to alter, modify or change the provisions of this order.
3. **ADDITIONAL PURCHASE ORDER AMENDMENTS.** Seller, upon request of Buyer, shall accept amendments to this order to incorporate additional provisions herein or to change provisions hereof as Buyer may reasonably deem necessary in order to comply with the provisions of the contract between Buyer and its customer or with the provisions of amendments to such contract and any applicable laws and regulations. If such amendments to this order cause an increase or decrease in the cost of or the time required for performance of this order, the Buyer agrees to negotiate and include any equitable adjustments to price, delivery and other conditions associated with said amendments required under this Clause. This clause shall not affect the provisions of Clause 10, Changes of the Standard Purchase Order Terms and Conditions and Clause 5 herein.
4. **CALENDAR DATES.** All periods of days referred to in this order shall be measured in calendar days.
5. **CHANGES.** Clause 10, Changes of the Standard Terms and Conditions is modified by the addition of the following provisions:
 - (a) Should any change cause, or result in, redundant material or work in process, any claim covering such redundant material or work in process must be submitted within twenty (20) days from the date of receipt of written notification of the change and be on the forms and in the detail prescribed by Subparts 49.6 and 53.3 of FAR. Any adjustment due Seller will be determined in accordance with the provisions of Parts 31 and 49 of FAR relating to termination for convenience as in effect on the date of this order. Where the cost or property made redundant as a result of a change is included in Seller's claim for adjustment, Buyer shall have the right to prescribe the manner of disposition of such property.
 - (b) SELLER AGREES THAT ITS FAILURE TO SUBMIT SUCH CLAIM OR CLAIMS WITHIN THE APPLICABLE TIME PERIOD SHALL CONSTITUTE A WAIVER THEREOF UNLESS FOR GOOD CAUSE, SELLER REQUESTS IN WRITING PRIOR TO EXPIRATION OF THE APPLICABLE TIME PERIOD THAT A TIME EXTENSION FOR FILING ITS CLAIM OR CLAIMS BE GRANTED BY BUYER AND BUYER GRANTS SUCH EXTENSION. ANY SUCH EXTENSIONS, IF APPROVED, SHALL BE EFFECTIVE ONLY IF AUTHORIZED IN WRITING BY BUYER PRIOR TO FINAL SETTLEMENT OF ANY TIMELY FILED CLAIM OR CLAIMS. SELLER MAY SUBMIT REVISIONS TO SUCH CLAIM OR CLAIMS PROVIDED THAT SUCH REVISIONS DO NOT INTRODUCE DIFFERENT AREAS OF COSTS OR CLAIM ELEMENTS.
6. **CHANGES NOTIFICATION.** The primary purpose of this clause is to obtain prompt reporting of any conduct (including inaction by the Buyer) or event, which the Seller considers to be a change to this order. The parties acknowledge that proper administration of this order requires that potential changes be identified as such in writing and signed by the Buyer's authorized representative. The Seller shall notify the Buyer of any conduct or event which the Seller considers to be a change to this order. Such notice shall be provided promptly and in any event within twenty (20) days from the date the conduct or event occurred. Failure to submit such notice within the twenty (20) days shall be deemed to be a waiver of all Seller's right to claim such conduct or event as a change to this order. The notice shall be written and shall state, on the basis of the most accurate information available to the Seller: (i) The date, nature, and circumstances of the change; (ii) The name, function, and activity of the individual(s) directly involved in or knowledgeable about the potential change; (iii) The identification of any documents and the substance of any oral communication involved; (iv) The particular elements of contract performance for which the Seller might seek an equitable adjustment under this clause, including the labor or materials (or both) which have been or might be added, deleted or wasted by the potential change; (v) The cost and schedule impact of the potential change; and (vi) What and in what manner are the particular technical requirements or contract requirements regarded as changed.
7. **CLAUSE HEADINGS.** The headings and subheadings of clauses contained with this order are used for convenience and ease of reference and do not limit the scope or intent of the clause.
8. **COST-PLUS-A-PERCENTAGE-OF-COST LOWER-TIER ORDERS.** No subcontract placed under this order shall provide for payment on a cost-plus-a-percentage-of-cost basis without prior written notice to Buyer.
9. **DISPUTES.** Any dispute arising under this order which is not settled by agreement of the parties hereto shall be resolved by appropriate legal proceedings. Pending final resolution of a dispute hereunder, the Seller shall proceed diligently with the performance of this order in accordance with the Buyer's direction.
10. **INDEMNIFICATION - LAWS AND REGULATIONS.** In addition to any other remedies which Buyer may have hereunder, if Buyer's contract price or a cost allowance is reduced by its customer by reason of the Seller or Seller's subcontractors' (i) failure to comply with an applicable Cost Accounting Standard or to follow any practice disclosed in its disclosure statements; or (ii) failure to furnish complete, accurate and current cost and pricing data in accordance with P.L. 87-653, 10 USC 2306; or (iii) submission of unallowable costs in any proposal for settlement of indirect costs in violation of P.L. 99-145, 10 USC 2324; or (iv) other acts or omissions entitling Buyer's customer to reduce Buyer's contract price or cost allowance; Buyer shall be entitled to:
 - (a) Reduce the price of this order by an amount commensurate with the reduction in Buyer's contract price or cost allowance and any penalties assessed thereon, or
 - (b) In the event Seller shall already have been paid the full subcontract price or essentially the full subcontract price, Seller shall reimburse and indemnify Buyer in an amount commensurate with the reduction in Buyer's contract price or cost allowance, plus any applicable penalties assessed against Buyer.
 - (c) Furthermore, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense (including attorney's fees) if Buyer is subjected to any liability as the result of a failure of Seller or its lower tier subcontractors to comply with the requirements of this clause or any other law or regulation.
11. **INSPECTION OF SUPPLIES.** Clause 7, Inspection of the Standard Purchase Order Terms and Conditions of this order is superseded by FAR 52.246-3, Inspection of Supplies (Cost Reimbursement), modified as follows:

"Government" means "Buyer" except (i) the first time it appears in the first sentence of paragraph (b) it means "Buyer and the Government" and (ii) in paragraph (k) it means "Government or Buyer". The provisions in the clause for access rights to inspect safety protection and relief from liability apply equally to Buyer and the Government. These rights and remedies of the Buyer shall be in addition to and not in limitation of those set forth in Clause 6, Warranties of the Standard Purchase Order Terms and Conditions.
12. **ORDER OF PRECEDENCE.** Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence:
 - (a) Typed provisions set forth on this order
 - (b) Buyer's purchase order attachments
 - (c) These Purchase Order Supplemental Terms and Conditions
 - (d) Purchase Order Standard Terms and Conditions

- (e) Statement of Work (SOW)
- (f) Specifications attached or incorporated by reference. Buyer's specifications shall prevail over those of any agency of the U. S. Government and both shall prevail over those of Seller.
13. PRICES. Seller warrants that any prices charged herein do not exceed the unit prices charged by Seller to the Government or other customers in substantially similar transactions.
14. PRIORITIES AND ALLOCATIONS. The Seller shall follow the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR 350) and all other applicable regulations and orders issued by the Office of Industrial Resource Administration, Department of Commerce, in obtaining controlled materials and other products and materials needed to fill this order.
15. PROCUREMENT FLOW-DOWN REQUIREMENT. The Seller shall flow-down those special contract requirements and clauses of this order that are required by this order, law, FAR and/or DoD FAR Supplement, and any additional clauses which the parties may mutually agree to subsequent to the award of this order with a no-cost impact.
16. TERMINATIONS. Clause 13, Termination and Clause 14, Cancellation-Cause of the Standard Purchase Order Terms and Conditions are superseded by the following provisions:
- (a) This order may be terminated by Buyer in accordance with the clause set forth in FAR 52.249-6. ("Government" and "Contracting Officer" means Buyer, and "Contractor" means Seller.)
- (b) The provisions of said clause incorporated herein by reference which provide that a failure to agree shall be a dispute shall be governed by Clause 9 herein.
- (c) Seller shall not include in any claim submitted any cost of design engineering or development or any cost for special tooling or special test equipment, unless specifically ordered by Buyer as a separate item of work separately priced, notwithstanding any provision of Parts 31 or 49 of FAR to the contrary.
- (d) SELLER AGREES THAT ITS FAILURE TO SUBMIT SUCH CLAIM OR CLAIMS WITHIN THE APPLICABLE TIME PERIOD SHALL CONSTITUTE A WAIVER THEREOF UNLESS FOR GOOD CAUSE SELLER REQUESTS IN WRITING PRIOR TO EXPIRATION OF THE APPLICABLE TIME PERIOD THAT A TIME EXTENSION FOR FILING ITS CLAIM OR CLAIMS BE GRANTED BY BUYER AND BUYER GRANTS SUCH EXTENSION. ANY SUCH EXTENSION, IF APPROVED, SHALL BE EFFECTIVE ONLY IF AUTHORIZED IN WRITING BY BUYER PRIOR TO FINAL SETTLEMENT OF ANY TIMELY FILED CLAIM OR CLAIMS. SELLER MAY SUBMIT REVISIONS TO SUCH CLAIM OR CLAIMS PROVIDED THAT SUCH REVISIONS DO NOT INTRODUCE DIFFERENT AREAS OF COSTS OR CLAIM ELEMENTS.
17. TITLE AND RISK OF LOSS.
- (a) Unless this order specifically provides for earlier passage of title, title to supplies covered by this order shall pass to Buyer only upon formal acceptance, regardless of when or where Buyer takes prior physical possession or because of prior inspections by Buyer.
- (b) Unless this order specifically provides otherwise, risk of loss of, or damage to supplies covered by this order, shall remain with the Seller until, and shall pass to Buyer upon:
- (1) Delivery of the supplies to carrier, if transportation is f.o.b. origin; or
- (2) Acceptance by Buyer or delivery of possession of supplies to Buyer at the destination specified in this order, whichever is later, if transportation is f.o.b. destination.
- (c) Notwithstanding subparagraph (b) above, the risk of loss or damage to supplies which do not conform to the requirements of this order, shall remain with the Seller until cure or acceptance, at which time subparagraph (b) above shall apply.
18. USE OF BUYER'S DATA. Seller shall not reproduce, use, or disclose any data, designs or other information belonging to or supplied by or on behalf of Buyer, except as necessary in the performance of orders for Buyer; provided however that Seller may produce such supplies for sale to the Government when the Government has the right to authorize and has authorized the use of such data, design of other information. Upon Buyer's request, such data, designs or other information, and any copies thereof shall be returned to Buyer. Buyer shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work created by Seller under this order. Notwithstanding any other provision of this order, to the extent the Government has the right to authorize such use by Seller, Seller may utilize the Buyer's data and information in the manufacture of supplies for direct sale to the Government provided, however, that Seller shall (a) identify, to the extent possible, each article as being manufactured by Seller in the performance of orders for the Government, and (b) make no claim against Buyer which arises out of use by Seller of such data and information. Where Buyer's data, designs, or other information are furnished to Seller's suppliers for procurement of supplies by Seller for use in the performance of Buyer's order, Seller shall insert the substance of this provision in its orders.
19. USE OF SELLER'S DATA.
- (a) To the extent that Seller establishes a claim to statutory copyright in any data first produced and furnished in the performance of this order, Seller grants the Buyer a royalty-free, nonexclusive, irrevocable, worldwide license to publish, distribute, translate, duplicate, exhibit or perform any such data copyrighted by the Seller with the rights to grant sublicenses.
- (b) Exclusive of computer software related documentation and other proprietary data, the Seller agrees to grant a license for the benefit of the Buyer of the same scope as set forth in paragraph (a) above to any technical data delivered under this order.
20. INDEPENDENT CONTRACTOR. It is understood and agreed that Seller shall be deemed to be an independent contractor in all its operations and activities hereunder; and that the employees furnished by Seller to perform work hereunder shall be deemed to be Seller's employees exclusively without any relation whatever to Buyer as employees or as independent contractors; that said employees shall be paid by Seller for all services in this connection; that Seller shall carry worker's compensation insurance and that Seller shall be responsible for all obligations and reports covering social security, unemployment insurance, worker's compensation, income tax, and other reports and deductions required by State and/or Federal law.
21. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA). If Seller furnishes equipment or supplies pursuant to this order, such equipment or supplies will comply with the Occupational Safety and Health Act and regulations issued pursuant thereto. Seller agrees to repair, modify or replace any equipment or supplies not complying with OSHA at its sole cost and expense and will hold harmless and indemnify Buyer from any liability and expense (including attorney's fees) by reason of property damage or personal injury (including death) occasioned in whole or in part from a violation of OSHA standards.
22. BUYER-OWNED PROPERTY. Buyer does not require Seller to purchase insurance covering property of Buyer but if Seller shall nevertheless carry any insurance against direct loss or damage the cost thereof shall not be a direct charge to this order. Seller shall be responsible to the extent of its legal liability for loss of or damage to property of Buyer caused by the negligence or wrongful act or omission of Seller, its representatives, agents or employees.
23. RESPONSIBILITY FOR PROPERTY. Unless otherwise provided in this order, Seller, upon delivery to it or manufacture or acquisition by it, of any materials, parts, tooling or other property the title to which is in Buyer or the Government, assumes the risk of and shall be responsible for any loss thereof or damage thereto. Seller, in accordance with the provisions of this order, but in any event upon completion thereof, shall account for and return such property to Buyer in the condition in which it was received except for reasonable wear and tear and except to the extent that such property has been incorporated in items delivered under this order, or has been consumed in normal performance of work under this order. If Seller is furnished Buyer or Government-owned property for use in connection with this order, Seller shall comply with the provisions of the FAR Subpart 45.5 entitled "Management of Government Property in the Possession of Contractors" and, when required, with the DoD FAR supplement Subpart 245.5. Buyer and the Government shall have the right to enter Seller's premises at all reasonable times to inspect its property and Seller's records with respect thereto.
24. USE OF GOVERNMENT-OWNED FACILITIES, SPECIAL TOOLING, AND SPECIAL TEST EQUIPMENT.
- (a) The price and delivery schedule of this order are based on the rent-free usage of Government-owned facilities, special tooling, or special test equipment provided under contracts and subcontracts specified in this order; and Seller and its lower-tier subcontractors may use, rent-free, in the performance of this order, such government-owned facilities, special tooling and special test equipment, provided that such use is authorized by and in accordance with the conditions imposed by the Government activity cognizant of the facilities, special tooling and special test equipment.

- (b) The above authorization to use Government-owned facilities, special tooling, and special test equipment is limited to those items available on the effective date of this order and to those items which the Government contemplated making available to the Seller and its lower-tier subcontractors for use under this order, including, but not limited to, those items specified in proposals for the acquisition of facilities, submitted by the Seller and its lower-tier subcontractors prior to the effective date of this order or such lower-tier subcontracts and related to the performance of this order.
- (c) Upon receipt by Buyer from the Administrative Contracting Officer of his approval to use and his agreement as to the amount of the adjustment hereinafter described, Seller is authorized to use other (after-acquired) Government-owned facilities, special tooling and special test equipment; provided, however, that (i) under a firm-fixed price order, Buyer on behalf of the Government shall receive the benefit of any reduction in the cost of performing this order; or (ii) under a fixed-price incentive order, there shall be deducted from the target cost of this order, for purposes of computing the incentive profit, an amount equal to the estimated cost savings resulting from the use of the other (after-acquired) facilities, tooling and test equipment. The resultant adjustment specified in this paragraph with respect to the authorization to use after-acquired facilities, special tooling and special test equipment, shall not apply to the replacement of Government-owned facilities, special tooling and special test equipment when required (i) by normal replacement or repair practices, or (ii) by any generally applied facilities modernization program; the use of such facilities and equipment shall be on a rent-free basis. The foregoing principles shall be utilized in the adjustment of the price of those lower-tier subcontracts the performance of which involves the use of other (after-acquired) Government-owned facilities, special tooling and special test equipment.
- (d) In the event that during the performance of this order the authority to use facilities, special tooling or special test equipment (use of which is authorized in accordance with this provision) is limited or terminated by the Government and such facilities, special tooling or special test equipment at or after the time of such limitation or termination are or will be required to perform this order in accordance with the delivery schedule set forth herein, an equitable adjustment in the order price or delivery schedule, or both, shall be made in accordance with the provisions of the Changes clause.

25. DELIVERY - ADVANCE MANUFACTURING OR PROCUREMENT

Delivery according to schedule is a major condition of this order. Seller shall not, without Buyer prior written consent, manufacture or procure materials in advance of Seller's normal flow time or deliver in advance of schedule. In the event of termination or change, no claim will be allowed for any such manufacture or procurement in advance of Seller's normal flow time unless there has been prior written consent of Buyer. Unless advance shipment has been authorized in writing by Buyer, Buyer may return, shipping charges collect, all articles received in advance of schedule.