

1. Offer and Acceptance. This Purchase Order (the "Order") constitutes an offer by Aerojet to purchase the environmental services and related items described herein (the "Work") from the supplier identified on the face of this Order (the "Seller"). If Seller accepts this offer, either by giving Aerojet written notice of Seller's acceptance or by beginning performance hereunder, Aerojet and Seller will have formed a contract expressly limited to the terms and conditions set forth herein. No other terms and conditions, including acknowledgement terms and conditions tendered by Seller, shall apply, and Aerojet hereby gives notice of objection to and rejection of any terms and conditions which differ from those set forth in this Order.

Seller warrants that it has, or can readily obtain during performance, the resources needed to perform the Work, and that it is not a party to any other agreement that would prevent or impair its performance hereunder.

1a. Scope Of Services. The Services that Seller shall provide are set forth in the Statement of Work and in the specifications attached to this Order, and may include: (a) engineering and technological services relating to the environment; (b) geo-technical services including sampling, analysis, design, engineering and construction; (c) site assessment, (d) laboratory analysis and (e) disposal operations. Seller has satisfied itself as to the nature and location of the work, equipment and facilities needed prior to and during performance of the work, the general and local conditions, and other matters that can reasonably be expected to affect the work under this Order. Seller agrees that it has reviewed or shall review all information and contract documents furnished to Seller by Aerojet pertaining to the Work, and that it will timely report any discrepancies or potential problems therein to Aerojet. Seller has performed or shall perform its own evaluation to verify field conditions and other information furnished to or known by Seller against the proposed Statement of Work and specifications prior to beginning activities. Unless otherwise provided on the face of the Order, Seller shall

secure any permits, licenses, approvals, manifests and inspections necessary to its performance hereunder.

1b. Differing Site Conditions. A Differing Site Condition is any subsurface or latent physical condition at the site or sites specified in the Order that differs materially from that indicated by the Order documents, and (1) adversely impacts the environmental conditions at the site(s) or the health or safety of persons on or near the site(s), or (2) adversely affects the performance of the Work. If Seller discovers a Differing Site Condition, it shall immediately notify Aerojet of such discovery and, if possible, before such condition is disturbed. Seller shall stop that portion of the work affected by the Differing Site Condition and sufficiently secure the work to prevent exposure of persons and property to any hazard. Aerojet shall investigate the Differing Site Condition promptly upon receiving the notice. If the reported condition is a Differing Site Condition which causes an increase or decrease in Seller's cost or time required for performing the Work hereunder, an equitable adjustment shall be made under Clause 6 (Changes).

1c. Samples. Seller will retain all soil, rock, vapor, water and other samples obtained from the site(s) for as long as reasonably necessary for proper execution of the Work, but at least as long as specified in this Order, and if not so specified, for no less than 120 days after the issuance of any document that reports the data for which a sample was taken.

1d. Documentation, Records, Audit Seller shall provide Aerojet with copies of all documents which Seller is required to file or maintain under any federal, state or local law identifying or naming Aerojet, including, without limitation, any hazardous waste manifests relating to the Work. All documents furnished Seller hereunder by Aerojet, and all documents or data acquired for, or prepared in the performance of, this Order by or on behalf of Seller shall be the property of Aerojet. Upon request, Seller shall provide Aerojet with copies of all licenses, approvals, permits, manifests or other documents that Seller is required to

obtain or maintain for its performance hereunder. Aerojet shall have the right to audit Seller's records and accounts covering costs and charges under this Order at all reasonable times during the course of the Work and for a period of five (5) years following substantial completion of this Order for verification of such costs or charges. Upon the completion of any such audit, the results shall be presented to Seller.

2. Governing Law. This Order shall be governed by and construed in accordance with the laws of the State of California, exclusive of its conflicts of law provisions. Any dispute arising hereunder which cannot be resolved except by legal process will be referred to a court of competent jurisdiction in California, without resort to binding arbitration. Seller hereby consents and submits to the exclusive jurisdiction of federal, state and local courts in the State of California.
3. Prices. The prices or rates stated on the face of this Order are firm and not subject to escalation. Seller warrants that the prices or rates are at least as low as those being currently quoted by Seller to commercial users for the same services or products in like quantities and under similar circumstances. If Seller makes any price or rate reductions after the date of this Order but prior to any payment date, such reductions will thereafter be applied to this Order. Unless otherwise specified on the face of this Order, the prices or rates are inclusive of packing, delivery and taxes.
4. Delivery. Aerojet will not be obligated to accept substitutions, untimely delivery of services or products, deliveries in quantities other than those ordered, or deliveries of non-conforming Work. Any such acceptance by Aerojet of substitutions, untimely deliveries, partial deliveries or deliveries of non-conforming Work shall not waive the schedule set forth in this Order. A failure to comply with the schedule, or any extension thereof, may be considered a material breach of this Order.

Seller will immediately give written notice to Aerojet of any actual or potential cause or event which threatens the timely performance of the Work. Aerojet reserves the right to require special execution or delivery of the Work by any means necessary for Seller to satisfy the schedule specified herein, and Seller shall pay any increased cost. Unless otherwise specified on the face of this Order, Seller retains the risk of loss or damage in transit of products supplied hereunder until receipt of conforming products at Aerojet's requested destination.

5. Invoices. Unless otherwise specified on the face of this Order, payment terms shall be net 30 days from acceptance of the Work and the receipt of a separate invoice for each delivery, containing the following information: (a) Seller's name; (b) the name and address for remittal of payment; (c) Invoice number and date; (d) Order number and line item number; and (e) Description of the Work, quantity, unit of measure, unit price or rate, and extended total.

Aerojet may make adjustments to amounts invoiced by Seller for shortages, rejections, or other failure to comply with the requirements of this Order, and will notify Seller of any such adjustments. Aerojet will take advantage of any discounts incorporated herein, or those stated on individual invoices, whichever is more favorable. The first day of any discount period shall be the first working day of Aerojet following acceptance of the Work and receipt of a proper invoice.

- 5a. Payments. Seller shall be paid for labor and materials, as follows:
  - A. Labor:  
The amount computed by multiplying the applicable hourly rate(s), as set forth in this Order, by the corresponding number of direct labor hours performed. The rates shall include all overhead, general and administrative expenses, and profit. Fractional parts of an hour shall be payable on a prorated basis to tenths of an hour. Invoices may be submitted once each month, or at more frequent intervals if approved by Aerojet. Seller will substantiate invoices by evidence of actual payment and by

individual daily timecards, or such other substantiation as may be acceptable to Aerojet.

**B. Overtime:**

Unless otherwise specified, the hourly rate(s) set forth in this Order shall not be modified because Seller performed work on an overtime basis unless overtime rates are provided for in this Order and overtime work is approved in advance by Aerojet.

**C. Materials and Subcontracts:**

Allowable costs of materials shall include reasonable and allocable material handling or indirect costs allocated to materials in accordance with the Seller's usual accounting practices. Seller shall support all material costs claimed by submitting paid invoices or storeroom requisitions, or by other substantiation acceptable to Aerojet. The price of subcontracts which are authorized pursuant to the "Assignment and Subcontracts" clause hereof shall be reimbursable costs hereunder. Reimbursable cost of subcontracts shall be limited to the amounts actually required to be paid by Seller to the subcontractor and shall not include any costs for placing, administration or supervision of the subcontract. The Seller shall, to the extent of its ability, procure materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials, and take all cash and trade discounts, rebates, allowances, credits, salvage, commissions and other benefits.

5b. Estimated Cost. It is estimated that the total cost for the performance of the Work will not exceed the ceiling price set forth on the face of the Order, and the Seller agrees to use its best efforts to perform the work specified herein within such ceiling price. If Seller has reason to believe that the costs which will accrue in the performance of this Order in the next thirty (30) days, when added to the costs previously accrued, will exceed eighty-five percent (85%) of the ceiling price then set forth herein, Seller shall notify Aerojet to that effect, giving a revised estimated total price, with supporting data.

Aerojet shall not be obligated to compensate Seller in excess of the ceiling price set forth in this Order, and the Seller shall not be obligated to continue performance when its allowable costs would exceed the ceiling price, unless Aerojet notifies Seller in writing that such ceiling price has been increased. When and to the extent that the ceiling price set forth in this Order has been increased, any labor hour and material costs incurred by Seller in excess of the ceiling price prior to the increase shall be allowable to the same extent as if such labor hour and material costs had been incurred after such increase.

5c. Final Payment and Release. Upon receipt of the final invoice and supporting data, and providing Seller is in compliance with all provisions of this Order, Aerojet shall pay any balance due and owing Seller. Seller and its assignees shall execute and deliver, at the time of and as a condition precedent to final payment, a release discharging Aerojet and its officers and directors from all liabilities, obligations, and claims of Seller or its successors in interest arising out of or under this Order, subject only to: (1) Defined claims in stated amounts or estimated amounts where the amounts are not susceptible of exact statement; (2) Claims, together with reasonable expenses, incidental thereto, based upon the liabilities of Seller to third parties arising out of the performance of this Order, which are not known to Seller on the date of execution of the release, but as to which Seller gives notice in writing to Aerojet not more than one (1) year after the date of the release or the date Aerojet tendered final payment, whichever is earlier; and (3) Claims for reimbursement of costs (other than expenses or liabilities of Seller by reason of its indemnification of Aerojet against infringement), including reasonable expenses incidental thereto, incurred by Seller under the provisions of this Order relating to patents, trademarks and copyrights.

6. Changes. Aerojet, by written directive by or through its Procurement Representative, may

make changes at any time and from time to time, without notice to sureties, if any, in the drawings, designs or specifications, statement of work, packaging, delivery or destination, Aerojet- furnished property, and quantity or schedule, and Seller shall immediately comply therewith. If any such change causes a material increase or decrease in the cost of or time required for the performance of any part of this Order (whether or not changed by the directive), an equitable adjustment will be made to the price(if applicable) or delivery schedule or both, and this Order will be modified in writing accordingly. Seller shall give notice of additional costs or schedule change within ten (10) days of receipt of any change, and submit a claim for equitable adjustment within 30 days. Nothing in this paragraph 6, including any disagreement as to the equitable adjustment to be made, shall excuse Seller from diligently proceeding with the Order as changed. The right to an equitable adjustment shall be Seller's sole and exclusive remedy for a change hereunder.

Additionally, Aerojet may issue an order to stop work hereunder, in whole or in part, for up to 120 days. Seller shall continue with the part of the Order not delayed, and for the part delayed, immediately stop work and mitigate the incurrence of additional costs, and cause its subcontractors and suppliers to immediately stop work and mitigate the incurrence of their additional costs. This event shall be treated as a change pursuant to this paragraph 6. Aerojet may then restart the delayed part of the Order within 120 days, or cancel it pursuant to paragraph 16.

7. Hazardous Materials. Seller, and its agents and subcontractors, will comply with all applicable local, state, federal and foreign laws and regulations governing the safety, environmental protection, labeling, packaging and transportation, and performance of the Work. If chemicals are supplied hereunder, Seller must furnish current Material Safety Data Sheets and any later updates, certify that the chemicals are listed on the Toxic Substances Control Act inventory, and affix appropriate warning labels.

8. Warranty of Goods. Seller warrants that goods supplied hereunder are new, of the grade and quality specified, free from liens and encumbrances, non-infringing, and that Seller has good title.

If the goods are supplied to Seller's samples, specifications or product descriptions, Seller warrants that the goods are free from defects in design (to the extent design is Seller's responsibility), and materials and workmanship, will be merchantable and fit for the intended purpose if Seller has supplied to Aerojet's stated purpose, and conform to Seller's samples, specifications or product descriptions and all other requirements of this Order. All other warranties, express, statutory and implied, are hereby excluded and disclaimed.

If the goods are supplied to Aerojet's samples, specifications or product descriptions, however, Seller warrants only that the goods are free from defects in design (to the extent design is Seller's responsibility), materials and workmanship, and conform to the other requirements of this order. All other warranties, express, statutory and implied, including the warranties of merchantability and fitness for the intended purpose, are hereby excluded and disclaimed.

Seller shall, at its expense and option, repair or replace any nonconforming goods. If, after notice, Seller fails to promptly correct the nonconformity, Aerojet may do so without further notice and Seller shall reimburse Aerojet for all costs thereof, or if Aerojet is unable to effect such repair or replacement, Seller shall promptly refund to Aerojet the full purchase price paid for all such products. Seller shall be responsible for consequential damages incurred as a result of its breach of this warranty, and not caused by the fault or negligence of Aerojet.

These warranties will survive acceptance, payment and subsequent use or resale of the goods by Aerojet. No Exception To These

Warranty Terms Shall Be Effective Unless Noted On The Face Of This Order.

9. Warranty of Services. Seller warrants that it has the capability, experience and means to provide the services required hereunder, and that such services will be performed in a diligent and professional manner, consistent with the accepted standards and practices of environmental engineering or remediation firms in the national environmental services industry, and in accordance with applicable federal, state and local laws, regulations and ordinances, and that it will utilize only the licensed or permitted treatment, storage or disposal facilities designated by Aerojet for use hereunder. Seller further warrants that all services provided hereunder shall conform to the requirements of this Order.

Seller shall, at its expense and option, re-perform any nonconforming services. If, after notice, Seller fails to promptly correct the nonconformity, Aerojet may do so without further notice and Seller shall reimburse Aerojet for all costs thereof, or if Aerojet is unable to effect such correction, Seller shall promptly refund to Aerojet the full purchase price paid for such services. Seller shall be responsible for consequential damages incurred as a result of its breach of this warranty, and not caused by the fault or negligence of Aerojet. These warranties will survive acceptance and payment by Aerojet. **No Exception To These Warranty Terms Shall Be Effective Unless Noted On The Face Of This Order.**

10. Inspection/Acceptance of the Work. Aerojet or its customers may inspect or test the Work at Seller's or Aerojet's place of business to verify compliance with the requirements of this Order. Inspection or payments prior to delivery do not constitute final acceptance. Return of non-conforming goods shall be at Seller's risk and expense at the full invoice price plus applicable transportation charges.

Aerojet reserves the right to use MIL-STD 105 or equivalent sampling plans for the acceptance or rejection of supplies. If a lot is rejected by

this sampling procedure, the entire lot may be returned to Seller for screening at Seller's expense or, at Aerojet's option, screened by Aerojet at Seller's expense.

11. Seller's Indemnity. Seller warrants that it has complied, and will comply, with all federal, state and local laws, regulations and directives that may relate to this Order, and that Seller shall obtain all permits or licenses required for the manufacture, sale, shipment and installation of the goods, or for the provision of the services, ordered hereunder.

Seller agrees that any services to be rendered or goods to be furnished by Seller under this Order shall be rendered or furnished as an independent contractor, and is at Seller's risk as to the methods, processes, procedures and conduct of the work. Seller shall be solely responsible for understanding the methods, processes, procedures and conduct of the work, including control of the associated hazards thereof, to assure the safety of its performance and that of its subcontractors and suppliers under this Order, and for the protection of all persons, premises or facilities involved in said performance, whether on Seller's property, Aerojet's property or elsewhere.

Seller will indemnify, defend, and hold harmless Aerojet and its duly authorized representatives, including Officers and Directors, from and against any and all losses, liabilities, damages, claims, demands, liens, subrogation, suits, actions, sanctions, expenses and administrative or other proceedings, including court costs and reasonable attorneys fees, to the extent arising from the performance of Seller's work, or that of its subcontractors or suppliers, and resulting or alleged to have resulted from any defect in design, workmanship or materials, or from any negligence or malfeasance, or from any breach of applicable laws, regulations, safety standards or directives, but excluding Aerojet's sole negligence or willful misconduct. Seller will promptly advise Aerojet of any such suit, action or proceeding which may be brought or threatened against Aerojet or Seller and, at

Aerojet's election and request, assume full responsibility for its defense. The provisions of this paragraph shall survive the termination, cancellation or completion of this Order.

12. Insurance Requirements. Before performing any work on Aerojet's premises, Seller will obtain, and thereafter maintain, the following insurance: (a) Workers' Compensation and Employer's Liability Insurance in the amount of \$500,000 or the minimum limits required by law, whichever is greater, with waiver of subrogation in favor of Aerojet; (b) General Liability Insurance (including contractual, products and completed operations coverage) with bodily injury limits of at least \$1,000,000 per occurrence and \$1,000,000 annual aggregate and with property damage limits of \$1,000,000 per occurrence; (c) Environmental Impairment Liability (sudden and non-sudden occurrences) in the amount of \$10,000,000; and (d) Automobile Liability Insurance with bodily injury limits of at least \$1,000,000 for any injuries to any person, \$1,000,000 for any one accident involving two or more persons, and property damage of not less than \$1,000,000 per accident. Such insurance shall be primary to any other insurance maintained by Aerojet. Seller assures that the foregoing insurance will identify Aerojet as a certificate holder and additional named insured, and, upon Aerojet's request, Seller will provide a certificate of insurance evidencing such coverage. Seller also assures that the certificate will provide ten (10) days notice to Aerojet prior to cancellation of, or material change in, the coverage. Seller agrees that such insurance will be maintained for a period of three (3) years following completion of the Work.

13. Assignment. This Order may not be assigned by Seller without the prior written consent of Aerojet, which consent will not be unreasonably withheld. Seller may not subcontract all or any substantial part of this Order without the prior written permission of Aerojet except to the extent disclosed in Seller's proposal. Any attempted assignment by Seller of rights or accounts under this Order shall be sufficient grounds for Aerojet to demand assurance of

performance by Seller. A failure by Seller to timely and reasonably satisfy such demand may be treated by Aerojet as a repudiation of this Order.

14. Waiver and Severability. No waiver of any right or remedy in respect to any occurrence or event on one occasion will be deemed a waiver of such right or remedy on any other occasion. The invalidity or unenforceability of any part of this Order shall not affect or impair the validity or enforceability of any other part.

15. Offsets. Aerojet may offset against payment otherwise due Seller any amounts, whether under or outside this Order, that Aerojet claims in good faith to be due from Seller.

16. Cancellation of Order. Aerojet may, by written notice to Seller, cancel this Order, in whole or in part, due to (a) Seller's material breach of any term of this Order, or Seller's insolvency, or the suspension of business operations or other condition which materially impairs Seller's ability to perform this Order, or (b) at Aerojet's option. Seller shall continue performance of this Order to the extent not cancelled.

In the event of cancellation under (a) above (Default): Aerojet may purchase, in a commercially reasonable manner, substitute products or services for those required by this Order and Seller shall be liable for any excess costs of procurement therefore. Aerojet may also require Seller to promptly and reasonably deliver any completed or partially completed Work, and shall have the right to manufacture the unfilled portion of this Order. Notwithstanding the foregoing, Seller shall not be liable to Aerojet for excess procurement costs if, except with respect to Seller's subcontractors, Seller's default is due to circumstances beyond its reasonable control and without its fault or negligence. If the failure to perform is caused by a subcontractor but from causes beyond the reasonable control and without the fault or negligence of both Seller and the subcontractor, Seller shall not be liable for excess procurement costs unless the supplies or services were reasonably

obtainable from other sources in sufficient time to permit Seller to meet the delivery schedule. However, no cause shall constitute an excusable delay hereunder unless Seller has notified Aerojet in writing of the existence of such condition within ten (10) days of its inception. Further, If a cancellation is commenced under (a) for default and it is later determined that Seller was not in default, the cancellation will be treated as one for Aerojet's convenience under (b)

In the event of cancellation under (b) above (Convenience): Seller shall immediately stop work and shall cause its suppliers and subcontractors to immediately stop work. Subject to the terms of this Order, Seller shall be paid a percentage of the Order price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that Seller can demonstrate to the satisfaction of Aerojet, using its normal accounting practices, resulted from the cancellation. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided, or for work performed in advance of Seller's requirements hereunder.

17. Seller's and Aerojet's Information, Publicity. Any information, data or know-how which either party hereto has disclosed or may disclose to the other incident to this Order shall not, unless otherwise specifically agreed upon in writing, be deemed confidential or proprietary, and therefore shall be acquired free from any restriction other than restrictions imposed by intellectual property rights. Seller hereby grants to Aerojet an irrevocable, worldwide, fully paid up license to any data owned, controlled or generated by Seller under this Order which is necessary to Aerojet's use of the Work.

No publicity, advertising or other public use of the existence, purpose or any information supplied to Seller by Aerojet under this Order shall be released by Seller without Aerojet's prior written consent.

18. Aerojet Property. Seller shall be responsible and accountable for Aerojet property furnished Seller hereunder, and shall be deemed an insurer thereof. Seller shall use such furnished property only in the performance of this Order, and shall return any such property not properly expended in the performance of this Order promptly at Aerojet's request or at completion, in as good condition as when received, reasonable wear and tear excluded.

Seller's final invoice and packing sheet must contain the statement "All materials, tooling, parts and other property furnished or acquired and paid for under this Order, except that which was properly expended in this Order or replaced by Seller, has been returned in the form of parts, tooling or unused material." Aerojet reserves the right to retain ten per cent (10 %) of the total amount of Seller's invoices until the requirements of this clause have been met by Seller.

19. Rights and Remedies. The rights and remedies provided in these terms and conditions are cumulative, and are in addition to any other rights and remedies at law or in equity.

**UNLESS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE HEREUNDER FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS).**

20. Labor Disputes. Whenever an actual or potential labor dispute delays or threatens to delay performance of this Order, Seller shall immediately give notice thereof and confirm it in writing with all relevant information. Seller shall include this clause in all subcontracts under this Order.
21. Pre-Existing Contamination. Notwithstanding any other provision herein, Aerojet acknowledges that, as of the date of this Order, Seller has played no part in the creation of any hazardous waste, pollution sources, nuisance, or chemical or industrial disposal problem, if

any, which may exist at the site(s). Seller has been retained for the sole purpose of assessing any problem that may exist and in formulating a mitigation program, including certain site work; therefore Aerojet extends to Seller the equivalent protection of a response action contractor as provided for in 42 U.S.C. 9619(c)(1). Ownership of, and legal responsibility and liability for, any pre-existing contamination of real or personal property at the site(s) shall, as between Aerojet and Seller, be with Aerojet.

22. Invention And Data Rights. Unless otherwise expressly provided herein, Aerojet shall have the right to use, for any purpose, not-patented information concerning supplies or services to be delivered by Seller under this Order, and Seller's analytical techniques, methods or processes which Seller may disclose to Aerojet during the performance of this Order.

All rights to patents, inventions, discoveries and improvements developed by Seller in its performance of this Order shall become the sole property of Aerojet. Seller shall disclose to Aerojet, promptly and in writing, all such inventions, discoveries and improvements, and shall take all actions requested by Aerojet to perfect Aerojet's rights under this clause.

23. Intellectual Property Indemnification, Notice and Assistance. Seller shall promptly report to Aerojet, in writing with reasonable detail, each notice or claim of patent, trademark, or copyright infringement based on Seller's performance under this Order. Seller shall defend and hold harmless Aerojet, its officers and directors, and any subsequent buyer or user of the services or supplies to be furnished hereunder against all actions, claims, proceedings, losses and liabilities resulting from infringement or alleged infringement of any United States or foreign patent, trademark or copyright pertaining to said services or supplies, unless the infringement is due to Aerojet's specification or is caused by the combination of the goods with other products not supplied by Seller and would not have occurred otherwise. In the event of a claim of

infringement, Seller shall defend any such claim and, if required, either procure a license for Aerojet's use of the technology hereunder, or substitute a product or service which is non-infringing.

24. Entire Agreement. This Purchase Order, including the face sheet(s), these terms and conditions, the Statement of Work, Aerojet attachments and documents referenced herein (but not including Seller's terms and conditions), is the complete and exclusive statement of the contract between the parties for purchase of the Work, and supercedes and replaces all prior negotiations, agreements, understandings or arrangements. No oral modifications, course of dealing, or custom and trade usage shall be effective to add to or vary the terms herein. No modification shall be effective unless in writing and signed by the Aerojet Procurement Representative.

(end)