

Pratt & Whitney Rocketdyne, Inc. (PWR)
A United Technologies Company

SOFTWARE EVALUATION TERMS AND CONDITIONS
(Addendum to PWR GP1 or PWR GP3 or PWR GP6)

1. EVALUATION

Seller has developed a computer program specified in Buyer's written Contract to Seller. Buyer desires to obtain and Seller is willing to furnish a copy of this program in the code form specified in the Contract, along with related documentation ("Software"), for evaluation by Buyer.

2. PERIOD OF USE

Buyer may use the Software for evaluation purposes only for a period not to exceed that identified in the Contract. Within thirty (30) days after the end of the evaluation period, Buyer shall return the Software to Seller, along with any copies of it made by Buyer, unless Seller gives Buyer authorization before the close of the evaluation period to retain possession of the Software and copies for a longer time period.

3. GRANT

Seller grants to Buyer the following rights in the Software:

- a. A nonexclusive, nontransferable license for Buyer's internal use of the Software within the United States of America, solely for the purpose of evaluation, and at the location on a single computer processing unit (CPU) identified in the Contract;
- b. The right to transfer the Software to another single CPU provided the Software is never used on more than one CPU simultaneously; and
- c. The right to reproduce, for the sole purpose of implementing reasonable software backup procedures, up to one (1) copy of the Software, provided all copyright notices and proprietary legends are reproduced.

4. OWNERSHIP

The Software, all copies of the Software, and all copyrights subsisting in or related to the Software are owned by Seller or its suppliers, as the case may be. Except for those rights in the Software specifically granted in this Contract, no rights in the Software are granted to Buyer.

5. CONFIDENTIAL AND PROPRIETARY

For a period of one (1) year after the effective date set forth above, or until the date on which the Software becomes commercially available, whichever occurs first, Buyer shall preserve all Software in confidence, provided that when furnished to Buyer the Software bears clear and conspicuous markings of confidentiality. The confidentiality obligation of Buyer under this Contract shall be considered fully satisfied through the exercise of the same safeguards exercised by Buyer to restrict disclosure and use of all Buyer Proprietary information.

6. DISCLOSURE

This Contract shall not restrict disclosure or use of any information that is

- a. Known to Buyer when received or thereafter is developed independently by Buyer or a subsidiary of Buyer; or
- b. Obtained from a source other than Seller through no breach of confidence by Buyer; or
- c. In the public domain when received or thereafter enters the public domain through no fault of Buyer; or
- d. Disclosed by Seller to a third party without restriction; or
- e. Required by applicable law or regulation, provided that Buyer notifies Seller of the requirement promptly and cooperates with

Seller (at the request and expense of Seller) in contesting the requirement.

7. COST AND EXPENSE

Each party shall bear all costs and expenses incurred by it under or in connection with this Contract. Nothing in this Contract shall be construed as an obligation by either party to enter into a contract, subcontract, or other business relationship with the other party. Notwithstanding the foregoing, should Buyer decide to license the Software, the terms and conditions of the Buyer Software License Terms and Conditions shall apply as of the date Buyer places an order for the Software with Seller and shall reference such terms and conditions.

8. INFRINGEMENT INDEMNIFICATION

Seller shall defend, indemnify, and hold harmless Buyer and its subsidiaries and their directors, officers, employees, and agents from and against all actions, causes of action, liabilities, claims, suits, judgments, liens, awards, and damages of any kind and nature whatsoever ("Claims"), expenses, costs of litigation, and attorneys' fees related thereto or incident to establishing the right to indemnification, to the extent such Claim arise out of the infringement of any patent or copyrights by the Software, or give Seller notice of all Claims made against Buyer and shall cooperate with Seller, at Seller's expense, in the defense or settlement of such Claims.

9. WARRANTIES

Seller is making the Software available AS IS for evaluation only and accordingly MAKES NO WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WHETHER ORAL OR WRITTEN, WITH RESPECT TO THE SOFTWARE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

10. LIABILITY

EXCEPT FOR CLAIMS UNDER CLAUSE 8 (INFRINGEMENT INDEMNIFICATION), IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY, WHETHER BASED ON CONTRACT, PRODUCT LIABILITY, OR WARRANTY, FOR ANY LOSS OF USE, PROFIT, OR REVENUE BY THE OTHER PARTY OR FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR ECONOMIC DAMAGES SUFFERED BY THE OTHER PARTY, ARISING FROM OR RELATED TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. CLAIMS BY EITHER PARTY FOR CONTRIBUTION FROM THE OTHER PARTY FOR THIRD- PARTY INJURY, DAMAGE, OR LOSS ARE NOT WAIVED, RELEASED, OR DISCLAIMED.

11. INTEGRATION WITH CONTRACT

The General Provisions (PWR GP1 or PWR GP3 or PWR GP6) are incorporated herein by reference.