

Purchase Order Terms and Conditions



1. Agreement

A. Time is of the essence in the performance of this PO.

B. Purchase orders shall be referred to as “**PO**” and mean the agreement whereby the affiliated companies within Phoenix Defense, LLC (a Delaware Company); Phoenix Logistics, LLC; Riptide Software, Inc; PLI Manufacturing, LLC; Phoenix Defense Germany, GbmH.; and Phoenix Defense Ventures, LLC, hereafter referred to as (“**Company**”) agree to purchase and Seller agrees to sell the Supplies, consisting of the terms specified on the face page hereof of this PO, the Purchase Order Quality Clauses (“**Q Clauses**”), and the Purchase Order Terms and Conditions (“**T&Cs**”), both as set forth herein. In the event of any conflict between the terms and conditions constituting this PO, the following order of precedence shall apply: (i) the terms specified on the face page of this PO, then (ii) the Q Clauses, then (iii) the T&Cs. Acceptance is strictly limited to the terms and conditions in this PO. Unless specifically agreed to in writing by Company, Company objects to, and is not bound by, any term or condition that differs from or adds to this PO. Seller’s commencement of performance or acceptance of this PO in any manner shall conclusively evidence acceptance of this PO as written.

C. Acceptance of this PO by Seller is required on the attached acceptance copy, which must be signed by Seller and returned immediately. However, any conduct by Seller recognizing the existence of an agreement also shall be deemed an acceptance, **without exception**, of the terms of this PO. Any addition to, or other modification of, these terms, or in quantities, prices or deliveries contained in any acknowledgment, invoice, or other form of communication from Seller, irrespective of whether communicated to Company before or after receipt by Seller of this PO or of any Supplies ordered, is hereby objected to and rejected, and shall be of no effect, notwithstanding Company’s acceptance of delivery or payment for such Supplies. The terms and conditions of this PO may only be amended or modified in writing, acknowledged and signed by an authorized Company representative. Any claim by Seller that this PO has been amended or modified except in compliance with the preceding sentence, shall give Company the right, at its election, to rescind this PO, regardless of whether the Supplies ordered have been delivered to Company.

D. The term “**Supplies**” as used herein may refer to goods, products, services rendered in connection with Supplies, reports, data and other personal or intellectual property ordered or deliverable hereunder as the context so requires. Any provision of this PO or of the law pertaining to goods, products, supplies, or services shall apply to all things so defined, including, without limitation the Arizona Uniform Commercial Code, to the extent applicable.

E. The terms “**Conforming**” or “**Conforming Supplies**” means Supplies that conform in all respects with the specifications as set forth in this PO or otherwise communicated in writing by Company to Seller. The terms “**Non-Conforming**” or “**Non-Conforming Supplies**” means Supplies which fail in any respect to conform with the specifications as set forth in this PO or otherwise communicated in writing by Company to Seller.

2. Schedule

A. Seller shall strictly adhere to the shipment or delivery schedules specified in this PO. In the event of any anticipated or actual delay, including but not limited to delays attributed to labor disputes, Seller shall: (i) promptly notify Company in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Company with a

written recovery schedule; and (iii) if requested by Company, ship via air or other expedited routing to avoid or minimize delay to the maximum extent possible, unless Seller is excused from prompt performance as provided in the “Force Majeure” Section of this PO. The added premium transportation costs are to be borne by Seller.

B. Seller shall not deliver Supplies prior to the scheduled delivery dates unless authorized by Company.

C. Company shall, at no additional cost, retain Supplies furnished in excess of the specified quantity or in excess of any allowable overage unless, within 45 days of shipment, Seller requests return of such excess. In the event of such request, Seller shall reimburse Company for reasonable costs associated with storage and return of the excess. If Supplies are manufactured with reference to Company’s proprietary information or materials, Seller agrees that pursuant to the “Confidential, Proprietary and Trade Secrets Information and Materials” Section of this contract, it will not sell or offer such Supplies for sale to anyone other than Company without Company’s prior written consent.

3. Packaging/Shipping

A. Seller shall pack the Supplies to prevent damage and deterioration. Company may charge Seller for damage to or deterioration of any Supplies resulting from improper packing. Unless this PO specifies otherwise, the price includes shipping charges for Supplies sold F.O.B. destination, including, as applicable, all carrier tariff terms and conditions. Unless otherwise specified in this PO, Supplies sold F.O.B. place of shipment shall be forwarded collect. Seller shall make no declaration concerning the value of the Supplies shipped except on Supplies where the tariff rating is dependent upon released or declared value. In such event, Seller shall release or declare such value at the maximum value within the lowest rating.

B. Unless this PO specifies otherwise, Seller will ship the Supplies in accordance with the following instructions:

① Shipments by Seller or its subcontractors must include packing sheets containing Company’s PO number, line-item number, description, and quantity of Supplies shipped, part number or size, if applicable, and evidence of inspections. A shipment containing hazardous and nonhazardous materials must have separate packing sheets for the hazardous and nonhazardous materials. Seller shall not include any hazardous substance in any packing material included with the Supplies.

② Seller will label each shipping container with the contract number and the number that each container represents of the total number being shipped (e.g., box 1 of 2, box 2 of 2).

③ Company will select the carrier and mode of transportation for all shipments where freight costs will be charged to Company.

④ Seller will include copies of documentation supporting prepaid freight charges (e.g., carrier invoices or UPS shipping log/manifest), if any, with its invoices.

⑤ If Seller is unable to comply with the shipping instructions in this PO, Seller will contact Company.

4. Inspection. Seller shall maintain an inspection system acceptable to Company for the Supplies purchased under this PO. At no additional cost to Company, Supplies shall be subject to inspection, surveillance and test at reasonable times and places, including Seller’s subcontractors’ locations. These inspection rights shall extend to customers of Company that are departments, agencies or instrumentalities of the United States Government. Company shall perform inspections, surveillance and tests so as not to unduly delay the work. If Company performs an inspection or test on the premises of Seller or its subcontractors, Seller shall furnish, and require its subcontractors to furnish, without additional charge, reasonable facilities and assistance for the safe and convenient performance of

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these duties. Seller, at no expense to Company, shall promptly comply with any written directions by Company reasonably necessary to correct deficiencies in such systems or in the manufacture of the Supplies or the Supplies themselves. Neither any inspection, testing, delivery nor payment for the Supplies delivered hereunder shall constitute acceptance thereof. All Supplies are subject to final inspection, test, and acceptance at their destination.

5. Receiving Shipment and Quantities.

A. Seller shall be responsible for all damages and losses of any kind incurred or suffered by Company as a result of failure to deliver the Supplies by the due date. Due dates shown are on dock at Company, unless otherwise stated in the body of this PO. Company reserves the right to refuse deliveries that are even one day late. Shipments of Supplies will be accepted up to 3 days prior to due date. Unauthorized advance shipments and shipments of other than the quantity ordered are returnable at Seller's expense.

B. Title to all Supplies to be delivered hereunder shall remain with Seller until the Supplies are delivered at the shipping point specified on this PO and Company has inspected and, at its discretion, tested the Supplies and found the Supplies to be either Conforming or otherwise satisfactory or given Seller notice of rejection or revocation of acceptance ("rejection" herein). All risk of loss or damage to the Supplies shall be upon Seller until title to the Supplies passes to Company; however, Seller shall bear all risk of loss or damage to Supplies rejected by Company after Seller's receipt of written notice of rejection of such Supplies until they are redelivered to Company, in a Conforming condition, except for the loss, destruction of, or damage to such rejected Supplies resulting from the negligence of Company.

C. Title to all Supplies delivered hereunder shall be delivered free and clear of all liens, charges or encumbrances, and Seller warrants that the title conveyed shall be good and marketable, and the transfer rightful. If the Supplies have been either originated or designed by Company in accordance with specifications or other data furnished by Company, all rights to the Supplies or such other data and all rights to the reproduction, use or sale thereof are, and shall continue to be owned solely by Company.

D. Seller shall bear all risk of loss or damage to any and all property furnished by Company to Seller or any subcontractor or agent of Seller for Seller's performance under this PO until the property has been redelivered to Company. Seller, or, as applicable, its subcontractors or agents, shall properly segregate, identify and protect all such property.

6. Non-Conformance.

A. Company may, if the Supplies or any part or portion thereof are Non-Conforming, do any or all the following:

Ø Reject or return those Supplies which, in Company's judgment, fail to pass inspection or meet warranty or conform to the requirements of this PO, including with respect to timeliness of delivery. As to returned Supplies (and as to rejected Supplies, but only if Company so directs), Seller shall promptly, at its expense, and at Company's election, repair or replace such Supplies, and Seller shall also be responsible for Company's cost of removal and reinstallation of such Supplies. Upon rejection or failure to promptly repair or replace, Company may cancel this PO and/or effect cover by purchase or otherwise, at Seller's expense. Supplies rejected or in excess of quantities ordered, at Company's election, may be returned to Seller at Seller's expense. If notice of rejection or return is given, incidental expenses and the risk of loss or damage to such rejected or returned

Supplies shall be borne by Seller. In addition, Company may charge Seller all expenses of unpacking, examining, repacking and reshipping such Supplies.

Ø Accept or retain Non-Conforming Supplies and, at Company's election, either equitably reduce the purchase price of those Supplies or repair them at Seller's expense. Company reserves the right to require repayment or effect a setoff against any amounts owed to Seller (irrespective of whether such amounts owed are in connection with this PO or not), of any expenses incurred by Company resulting from rejection or return and of any amount paid for such Non-Conforming Supplies pending a Conforming redelivery.

B. Acceptance of Supplies previously rejected or returned, or of used Supplies, or of former Government property, may be revoked if delivery is Conforming, but is not accompanied by written notice that those Supplies were previously rejected, returned, used or former Government property.

7. Payments/Invoices. Unless otherwise authorized by Company, Seller shall issue a separate original invoice for each delivery that shall include Company's PO number and line-item number. Seller shall forward its invoice to the address specified in this PO. Unless freight or other charges are itemized, Company may take any offered discount on the full amount of the invoice. Payment due date, including discount periods, shall be computed from the later of the scheduled delivery date, the actual delivery date or the date of receipt of a correct invoice. Payment shall be deemed made on the date Company's check is mailed or payment is otherwise tendered. Seller shall promptly repay Company any amounts paid in excess of amounts due Seller. Unless this PO specifies otherwise, the price of this PO includes, and Seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this PO except for applicable sales and use taxes that are separately stated on Seller's invoice. Prices shall not include any taxes, impositions, charges or exactions for which Company has furnished a valid exemption certificate or other evidence of exemption.

8. Warranty. Seller warrants that all Supplies furnished under this PO shall conform to all specifications and requirements of this PO and shall be free from defects in materials, workmanship, design and specification. This warranty shall survive inspection, test and acceptance of, and payment for, the Supplies. This warranty shall run to Company and its successors, assigns and customers. Such warranty shall begin after Company's final acceptance. Supplies required to be corrected or replaced shall be subject to this Section and the "Inspection" Section of this PO in the same manner and to the same extent as Supplies originally delivered under this PO, but only as to the corrected or replaced part or parts thereof. Even if the parties disagree about the existence of a breach of this warranty, Seller shall promptly comply with Company's direction to: (i) repair, rework or replace the Supplies, or (ii) furnish any materials or parts and installation instructions required to successfully correct the defect or nonconformance. If the parties later determine that Seller did not breach this warranty, the parties shall equitably adjust this PO price.

9. Changes.

A. Company may, by giving written notice, direct changes within the general scope of this PO in any of the following: (i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in

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quantities or delivery schedules or both; (v) amount of Company-furnished property; and, if this PO includes services, (1) description of services to be performed; (2) time of performance (e.g., hours of the day, days of the week); (3i) place of performance, and (4) terms and conditions of this PO required to meet Company's obligations under Government prime contracts or subcontracts. Subject to part B below, Seller shall comply immediately with such direction.

B. If such change increases or decreases the cost or time required to perform this PO, Company and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Company shall modify this contract in writing accordingly. Unless otherwise agreed in writing, Seller must assert any claim for adjustment to Company in writing within 10 days and deliver a fully supported proposal to Company within 20 days after Seller's receipt of such direction. If Seller's proposal includes the cost of property made obsolete or excess by the change, Company may direct the disposition of the property. Company may examine Seller's pertinent books and records to verify the amount of Seller's claim. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Company's direction.

C. If Seller considers that Company's conduct constitutes a change, Seller shall notify Company immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from Company, Seller shall take no action to implement any such change.

10. Termination

A. Company may terminate all or part of this contract, effective as of the date specified by Company, in accordance with the provisions of Federal Acquisition Regulation ("FAR") 52.249-2 (Sep 96), "Termination for Convenience of the Government (Fixed Price)," which provisions, except for subparagraphs (d) and (j), are incorporated herein by reference. The terms "Government" and "Contracting Officer" shall mean "Company," "Contractor" shall mean "Seller," and the phrase "1 year" is deleted each place it occurs and "six months" is substituted in its place. The time for requesting an equitable adjustment under subparagraph (1) is reduced to 45 days. Settlements and payments under this Section may be subject to approval by the Contracting Officer and the Settlement Review Board.

B. Company may, by written notice to Seller, cancel all or part of this PO if (i) Seller fails to deliver the Supplies within the time specified by this PO or any written extension; (ii) Seller fails to perform any other provision of this PO or fails to make progress, so as to endanger performance of this PO, and, in either of these two circumstances, does not cure the failure within 5 days after receipt of notice from Company specifying the failure; (iii) in the event of Seller's suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors.

C. Seller shall continue work not canceled. If Company cancels all or part of this PO, Seller shall be liable for Company's excess procurement costs.

D. Company may require Seller to transfer title and deliver to Company, as directed by Company, any (i) completed Supplies, and (ii) any partially completed Supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively, "Manufacturing Materials") that Seller has specifically produced or acquired for the canceled portion of this PO.

E. Company shall pay the contract price for Supplies accepted. Payment for Manufacturing Materials accepted by Company and for the protection and preservation of property shall be at a price determined in accordance with Section 10(A) of this PO, except that

Seller shall not be entitled to profit. Company may withhold from any amount due under this contract any sum Company determines to be necessary to protect Company or Company's customer against loss because of outstanding liens or claims of former lien holders.

F. If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the parties shall be as if the contract had been terminated according to Section 10(A) of this PO.

11. Parts Obsolescence. Seller agrees to continue all manufacturing capabilities and/or provide alternate support for the form, fit and functional requirements for the original configurations on any/all of the Supplies for at least 24 months following the date the Supply was delivered. Seller further agrees to provide Company at least 90 days prior written notice of its intent to discontinue providing any Supply.

12. Assignment, Delegation and Subcontracting. Seller shall not assign any of its rights or interest in this PO or delegate any of its duties or obligations under this PO without Company's prior written consent. Seller may assign its right to monies due or to become due. No assignment, delegation or subcontracting by Seller, with or without Company's consent, shall relieve Seller of any of its obligations under this contract or prejudice any of Company's rights against Seller whether arising before or after the date of any assignment. This Section does not limit Seller's ability to purchase standard commercial supplies or raw materials.

13. Publicity. Seller shall not, and shall require that its subcontractors shall not, release any publicity, advertisement, news release or denial or confirmation of same regarding this PO or the Supplies or program to which it pertains without Company's prior written approval. Seller shall be liable to Company for any breach of such obligation by any subcontractor.

14. Confidential, Proprietary and Trade Secret Information and Materials. Company and Seller shall each keep confidential and protect from unauthorized use and disclosure all (a) confidential, proprietary and/or trade secret information; (b) tangible items and software containing, conveying or embodying such information; and (c) tooling identified as being subject to this Section and obtained, directly or indirectly, from the other in connection with this PO or other agreement referencing this PO (collectively referred to as "Proprietary Information and Materials"). Company and Seller shall each use Proprietary Information and Materials of the other only in the performance of and for the purpose of this PO and/or any other agreement referencing this PO. However, despite any other obligations or restrictions imposed by this Section, Company shall have the right to use, disclose and reproduce Seller's Proprietary Information and Materials, and make derivative works thereof, for the purposes of testing, certification, use, sale or support of any Supplies delivered under this PO or any other agreement referencing this PO. Any such use, disclosure, reproduction or derivative work by Company shall, whenever appropriate, include a restrictive legend suitable for the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials by Seller shall apply to all materials derived by Seller or others from Company's Proprietary Information and Materials. Upon Company's request at any time, and in any event upon the completion, termination or cancellation of this PO, Seller shall return to Company all of Company's Proprietary Information and Materials and all materials derived therefrom, unless specifically directed otherwise in writing by Company.

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Seller shall not, without the prior written authorization of Company, sell or otherwise dispose of (as scrap or otherwise) any parts or other materials containing, conveying, embodying or made in accordance with or by reference to any Proprietary Information and Materials of Company. Prior to disposing of such parts or other materials as scrap, Seller shall render them unusable. Company shall have the right to audit Seller's compliance with this Section. Seller may disclose Proprietary Information and Materials of Company to its subcontractors as required for the performance of this PO, provided that each such subcontractor first agrees in writing to the same obligations imposed upon Seller under this Section relating to Proprietary Information and Material. Seller shall be liable to Company for any breach of such obligation by such subcontractor. The provisions of this Section are effective in lieu of any restrictive legends or notices applied to Proprietary Information and Materials. The provisions of this Section shall survive the performance, completion, termination or cancellation of this PO.

15. Company's Property. Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all of Company's property and all property to which Company acquires an interest by virtue of this PO. Seller assumes all risk of loss, destruction or damage of such property while in Seller's possession, custody or control, including any transfer to Seller's subcontractors. Upon request, Seller shall provide Company with adequate proof of insurance against such risk of loss. Seller shall not use such property other than in performance of this contract without Company's prior written consent. Seller shall notify Company if Company's property is lost, damaged or destroyed. As directed by Company, upon completion, termination or cancellation of this PO, Seller shall deliver such property, to the extent not incorporated in delivered Supplies, to Company in good condition subject to ordinary wear and tear and normal manufacturing losses. Nothing in this Section limits Seller's use, in its direct contracts with the Government, of property in which the Government has an interest.

16. Indemnity.

A. Seller shall defend, indemnify and hold harmless Company against all damages, claims, costs and expenses (including attorneys' fees) arising out of or resulting from the Supplies provided under this PO, or from any act or omission of Seller, its agents, employees or subcontractors or which otherwise arises as a result of Seller's performance of this PO including, without limitation, all liabilities to its employees, agents and subcontractors, including liability for personal injury or death arising out of or resulting from providing such Supplies. If Seller enters the premises of Company or Company's customer, Seller shall indemnify and hold harmless Company, its officers, agents and employees from any loss or liability by reason of property damage, personal injury or death arising out of Seller's presence thereon, including loss or liability arising from the negligence of Seller.

B. Seller will indemnify, defend and hold harmless Company and its customers from all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the manufacture, sale or use of Supplies by either Company or its customers. Company and/or its customers will duly notify Seller of any such claim, suit or

or action; and Seller will, at its own expense, fully defend such claim, suit or action on behalf of indemnitees. Seller will have no obligation under this Section with regard to any infringement arising from (a) Seller's compliance with formal specifications issued by Company where infringement could not be avoided in complying with such specifications or (b) use or sale of Supplies by Company in combination with other items when such infringement would not have occurred from the use or sale of those Supplies solely for the purpose for which they were designed or sold by Seller.

17. Gratuities. Seller warrants that neither it nor any of its employees, agents, or representatives have offered or given, or will offer or give, any gratuities to Company's employees, agents or representatives for the purpose of securing this PO or securing favorable treatment under this PO.

18. Records/Audits. Seller shall retain all records and documents pertaining to the Supplies for a period of no less than three years after final payment. Such records and documents shall date back to the time this PO was issued and shall include without limitation, catalogs, price lists, invoices and inventory records for purposes of verification of prices or rates charged by Seller for Supplies procured by Company. Company shall have the right to examine, reproduce and audit all such records related to pricing and performance to evaluate the accuracy, completeness and currency of cost and pricing data submitted with Seller's bid or offer to sell; and related to "Changes" or "Termination" Sections of this PO.

19. Rights/Remedies. Any failures, delays or forbearances of either party in insisting upon or enforcing any provisions of this PO, or in exercising any rights or remedies under this PO, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect. Except as otherwise limited in this PO, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity, including without limitation, remedies available under the Arizona Uniform Commercial Code. If any provision of this PO is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.

20. Compliance with Law. Seller shall comply with all applicable statutes and government rules, regulations and orders, including those pertaining to United States Export Controls. Government clauses applicable to this PO are incorporated herein either by attachment to this document or by some other means of reference.

21. Export Controls. Seller represents and warrants that the Supplies (a) shall not be subject to export controls under the U.S. Dept. of State Int'l Traffic in Arms Regs. ("ITAR") and (b) are not subject to specific license requirements under the U.S. Dept. of Commerce Export Admin. Regs. ("EAR"), other than for exports to proscribed countries included in Country Group E. Seller shall indemnify Company and its affiliates regarding all expenses and other losses arising from breach of this warranty.

22. Governing Law. This PO shall be governed by and construed in accordance with the laws of the state of Arizona, without regard to its conflict of laws rules. This PO excludes the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods.

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23. Force Majeure.

A. In the event of a significant force majeure event, terrorist act or other act or declaration of war that materially impacts Company's backlog or sales activities, Company may, in addition to the other rights set forth in this PO, reschedule or cancel deliveries affected by such an event as required (in Company's sole determination). In the event Company elects to either reschedule or cancel deliveries, Company will notify Seller in writing of the deliveries impacted by Company's determination. This PO will be modified accordingly, and all other deliveries, rights and obligations under this PO will remain unchanged, and there shall be no penalty, additional costs or liability assessed to Company as a result of its cancellation or rescheduling of deliveries under this paragraph.

B. Seller shall not be liable for excess re-procurement costs pursuant to the "Termination" Section of this PO, incurred by Company because of any failure to perform this PO under its terms if the failure arises from causes beyond the control and without the fault or negligence of Seller. Examples of these causes are (a) acts of God or of the public enemy, (b) acts of the Government in its sovereign or contractual capacity, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes, (h) freight embargoes and (i) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of Seller. If the delay is caused by delay of a subcontractor of Seller and if such delay arises out of causes beyond the reasonable control of both, and if such delay is without the fault or negligence of either, Seller shall not be liable for excess costs unless the Supplies to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules. Seller shall notify Company in writing within 5 days after the beginning of any such cause.

24. Suspension of Work. Company may, by written order, suspend all or part of the work to be performed under this PO for a period not to exceed 100 days. Within such period of any suspension of work, Company shall (i) cancel the suspension of work order; (ii) cancel or terminate this PO in accordance with the "Termination" Section of this PO; or (iii) extend the stop work period. Seller shall resume work whenever a suspension is canceled. Company and Seller shall negotiate an equitable adjustment in the price or schedule or both if (i) this PO is not canceled or terminated; (ii) the suspension results in a change in Seller's cost of performance or ability to meet this PO delivery schedule; and (iii) Seller submits a claim for adjustment within 20 days after the suspension is canceled.

25. Disputes. Any controversy or claim between the parties arising out of or relating to this PO, or the breach thereof, shall be governed by the laws of the State of Arizona, and settled by arbitration in Phoenix, Arizona, under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") and administered by the AAA. Pending settlement by agreement or a final judgment, Seller shall proceed diligently with the performance hereof according to Company's instructions.

26. Offset Credits. To the exclusion of all others, Company or its assignees shall be entitled to all industrial benefits or offset credits which might result from this PO. Seller shall provide documentation or information that Company or its assignees may reasonably request to substantiate claims for industrial benefits or offset credits.

Seller agrees to use reasonable efforts to identify the foreign content of goods that Seller either produces itself or procures from subcontractors for work directly related to this PO. Promptly after selection of a non-U.S. subcontractor for work under this PO, Seller shall notify Company of the name, address, subcontract point of contact (including telephone number) and dollar value of the subcontract.

27. Code of Conduct. Company is committed to conducting its business fairly, impartially, and in an ethical and proper manner. Company's expectation is that Seller also will conduct its business fairly, impartially, and in an ethical and proper manner. Company's further expectation is that Seller will have (or will develop) and adhere to a code of ethical standards. Seller shall comply with all the rules and regulations established by Company for access to and activities in and around premises controlled by Company or Company's customer. If Seller has cause to believe that Company or any employee or agent of Company has behaved improperly or unethically under this PO, Seller shall report such behavior to Company.

28. Entire Agreement. This PO contains the entire agreement of the parties and supersedes any and all prior agreements, understandings and communications between Company and Seller related to the subject matter of this PO. No amendment or modification of this PO shall bind either party unless it is in writing and is signed by an authorized representative of the parties.