

PANDJIRIS STANDARD TERMS AND CONDITIONS GUIDE

Table of Solicitation Clauses incorporated herein (see detail following tables):

Section 1: SOLICITATION CLAUSES

- Clause 100: Solicitation Instructions**
- Clause 101: Shipping Weight**
- Clause 103: Discounts for Prompt Payment**
- Clause 104: Taxes**
- Clause 105: Special Tooling and Special Test Equipment**
- Clause 113: Quotations Sent Via Facsimile (FAX)**
- Clause 117: No PI-Furnished Tooling or Equipment**
- Clause 120: Alternate Proposals**
- Clause 123: Effectivity of Proposal**
- Clause 126: Evaluation of Proposals**
- Clause 132: Identification of Restricted Rights Computer Software**
- Clause 135: Rights Reserved by PI**
- Clause 139: Time and Price Schedule**
- Clause 147: Return Proposal to Buyer**
- Clause 148: No-Bid Response**
- Clause 149: Bidder's Size and Point of Manufacture**
- Clause 151: Milestone Schedule**
- Clause 156: Restrictive Legends on Proprietary Data**
- Clause 157: Proprietary Data Control**

PANDJIRIS STANDARD TERMS AND CONDITIONS GUIDE

Table of Articles incorporated herein (see detail following table):

Section 2: GENERAL TERMS AND CONDITIONS

Article 1:	FORMATION OF THE CONTRACT
Article 2:	MODIFICATIONS
Article 3:	INSPECTIONS
Article 4:	QUALITY CONTROL
Article 5:	DELIVERY
Article 6:	ACCEPTANCE, REJECTION, CORRECTION OF DEFICIENCIES
Article 7:	WARRANTY
Article 8:	CHANGES
Article 9:	INVOICE AND PAYMENT
Article 10:	TERMINATION FOR CONVENIENCE
Article 11:	CANCELLATION FOR DEFAULT
Article 12:	PI PROPERTY
Article 13:	NONDISCLOSURE
Article 14:	PATENT, TRADEMARK, COPYRIGHT, MASK W. INDEMNITY
Article 15:	PATENT, TRADEMARK, COPYRIGHT, MASK WORK TITLES
Article 16:	SUBCONTRACTING AND ASSIGNMENT
Article 17:	SUSPENSION OF WORK
Article 18:	DISPUTES
Article 19:	APPLICABLE LAW
Article 20:	WAIVER AND SEVERABILITY
Article 21:	RIGHTS AND REMEDIES
Article 22:	COMPLIANCE WITH STATUTES AND REGULATIONS
Article 23:	PRECEDENCE
Article 24:	NEWS RELEASES AND PUBLIC ANNOUNCEMENTS
Article 25:	PACKING
Article 26:	SHIPPING INSTRUCTIONS
Article 27:	OFFSET AND CO-PRODUCTION
Article 28:	NEW ITEMS OF MANUFACTURE
Article 29:	ADVANCE MANUFACTURE/SHIPMENTS, OVER SHIPMENTS
Article 30:	EXPORT OF TECHNICAL DATA
Article 31:	EXCUSABLE DELAYS
Article 32:	MODIFICATIONS - ENTIRE AGREEMENT

PANDJIRIS STANDARD TERMS AND CONDITIONS GUIDE

Section 1: SOLICITATION CLAUSES

100. Solicitation Instructions (10/1/98). Bidder will comply with these instructions when responding to this solicitation.

- (a) Responses to this solicitation received after the specified "Bid Close Date" or "Required Date" may be considered nonresponsive. Any extension of the Bid Close Date or Required Date will be approved by Pandjiris, Inc.'s ("PI" or "PI's") authorized purchasing representative.
- (b) Bidder will provide pricing for the next highest quantity break, if any, above the quantity specified herein.
- (c) Bidder's response to this solicitation will be based upon zero shipping tolerance. If Bidder's offered price can be reduced by allowing for shipping tolerances, Bidder will so indicate by quantifying the reduction and specifying the shipping tolerance.
- (d) Bidder will indicate any manufacturer's part number if its response to this solicitation proposes an equivalent item other than the requirement stated herein.
- (e) Bidder will return the original Request For Quotation (RFQ), signed, dated, and incorporating the information indicated below. If Bidder received a Request For Proposal (RFP), the information indicated below will be provided as part of its response to this solicitation.
 - (1) Terms of payment;
 - (2) FOB point;
 - (3) Unit price for quantities indicated, Bidder's corresponding unit of measure, and the extended price (the product of the quantity required multiplied by the unit price);
 - (4) Bidder's delivery schedule. Note: If Bidder can deliver in accordance with the PI-required schedule, a separate indication of schedules is not required;
 - (5) Production lead-time required (in weeks);

- (f) Bidder will carefully review all documents cited in PI's solicitation to ensure the following;
 - (1) All information required to properly respond to this solicitation has been received;
 - (2) All tooling and material requirements, processes, and procedures are understood and priced accordingly in its response to this solicitation.
- (g) Bidder accepts the responsibility to contact PI's authorized purchasing representative, at the number noted in this solicitation, to resolve questions or concerns regarding this solicitation.
- (h) Bidder acknowledges by its response to this solicitation that no former PI employee is representing Bidder in connection with its proposal or any resulting order, without the express written consent of PI.
- (i) Proposals signed by an agent of Bidder will be accompanied by evidence of his or her authority to sign as agent of Bidder unless such evidence has been previously furnished.
- (j) PI reserves the right to reject any and all proposals if such action is deemed necessary to serve the interests of PI.
- (k) If an award is made, it will be made to the bidder whose proposal, when price and other factors are considered, will result in the most favorable situation for PI.
- (l) PI reserves the right to accept other than the lowest-priced proposal and to reject all others without prior discussions.
- (m) PI will use historical data from its Supplier Rating System when considering quality and timely delivery performance as award factors. PI intends to employ Best Value quantitative analysis of historical performance data whenever all responsive bidders have representative performance data in the Supplier Rating System.
- (n) The award may be made based on initial proposals, without discussion or negotiation. Accordingly, initial proposals should be submitted on the most favorable terms from a price, delivery, and technical standpoint.
- (o) Unless Bidder otherwise specifies in its proposal, PI may make an award for any item (or group of items) in Bidder's proposal for a quantity less than the

quantity proposed at the unit price proposed.

- (p) PI reserves the right to consider proposals or modifications to proposals received after the date specified in this solicitation, provided such documents are received prior to award and are in PI's and/or the Government's best interests.
- (q) Issuance of this solicitation does not commit PI to award a contract or to pay any costs incurred in the submission of any proposals or in making necessary studies or designs for the preparation thereof.

101. Shipping Weight (10/1/98). Bidder's proposal will include the total shipping weight or, if there will be more than one shipment, the approximate weight of each shipment.

103. Discounts for Prompt Payment (10/1/98). The terms of any prompt payment discount will be proposed in Bidder's response to this solicitation and may be a factor in PI's evaluation of Bidder's proposal.

104. Taxes (10/1/98). Any excise, use, sales, or other taxes applicable to the goods covered by this proposal will be proposed as separate items of cost.

105. Special Tooling and Special Test Equipment (10/1/98). If the contemplated procurement will require the use of special tooling or special test equipment (as defined in Part 45 of FAR) which is not presently in Bidder's possession, Bidder will submit an itemized, priced list of such tooling or equipment.

113. Quotations Sent Via Facsimile (FAX) (10/1/98). Responding to this solicitation via facsimile (FAX) transmission is expressly authorized. Reference the solicitation number on the FAX cover sheet and include PI's address and the name of PI's authorized purchasing representative. The telephone numbers of the FAX machines authorized to receive Bidder's proposal are indicated in this solicitation. In addition, Bidder will send the original proposal to PI's authorized purchasing representative.

NOTE: To ensure the integrity of the solicitation process, PI strongly urges bidders to use only FAX machines specifically authorized for receipt of controlled bids and reserves the right to deem any proposal to be nonresponsive and ineligible for award if it was submitted via a FAX machine not authorized in writing by PI.

117. No PI-Furnished Tooling or Equipment (10/1/98). PI does not anticipate that any tooling or equipment will be provided to Bidder in connection with the work to be performed under any resulting contract.

120. Alternate Proposals (10/1/98). Bidder is invited to submit additional, alternate proposals which might reduce its proposed prices by taking advantage of price breaks, delivery schedule variations, more economical packaging, bulk handling, or changes in configurations, materials, tolerances, finishes, etc. which will not impair any essential characteristics of form, fit, or function, such as service life, reliability, ease of maintenance, or interchangeability. Bidder is advised that alternate proposals are entirely optional, and in order to ensure that bidder is not found to be nonresponsive, should be submitted along with a proposal that is responsive to the precise requirements of this solicitation.

123. Effectivity of Proposal (10/1/98). Proposals will be valid for a minimum of 120 days. Bidder will state the effective period of the proposal in its written response. Bidder is advised that the proposed prices may be utilized by PI in preparing a proposal to a customer, with full reliance on Bidder's proposal.

126. Evaluation of Proposals (10/1/98). PI reserves the right to evaluate all proposals with regard to quality, price, assurance of timely delivery, and all other factors that PI, in its sole discretion, deems relevant, PI also reserves the right to reject any or all proposals.

132. Identification of Restricted Rights Computer Software (10/1/98). Bidder is notified that PI is required under certain Government and other contracts to disclose the use or disclosure of computer software which is to be delivered under such contracts in an agreement made a part of the contract, either negotiated prior to award or included in a modification of the contract before such delivery. Therefore, Bidder is requested to identify in its proposal, to the extent feasible, any such computer software for use of which it desires to negotiate restrictions and to state the nature of the proposed restrictions. If no such computer software is identified, all deliverable computer software will be deemed to be delivered with unlimited rights.

135. Rights Reserved by PI (10/1/98). PI reserves the right to make an offer for any item at the unit prices in Bidder's proposal.

139. Time and Price Schedule (10/1/98). Submit a time and price schedule by which additional quantities may be ordered for an overall unit price reduction (such as option pricing and volume discounts).

147. Return Proposal to Buyer (10/1/98). Send proposal via U.S. mail, common carrier, or facsimile (FAX), directed to the attention of the Buyer at the address shown in this solicitation. The Buyer's name, location, internal mail code, and the telephone numbers of the FAX machines authorized to receive proposals are included in this solicitation.

148. No-Bid Response (10/1/98). If Bidder declines to submit a proposal for any item described in this solicitation, Bidder is requested to submit a written "no-bid" response and to include with it the reason for not submitting a proposal.

149. Bidder's Size and Point of Manufacture (10/1/98). Bidder's proposal will state the number of employees of Bidder, the place of manufacture of the goods (or performance of the services), whether Bidder is a large or small business pursuant to the rules of the Small Business Administration, and, if manufactured, performed, or subcontracted outside the U.S., the export license number and whether Bidder is an affiliate of a U.S. firm.

151. Milestone Schedule (10/1/98). Bidder will submit with its proposal a schedule of the significant milestones required for the manufacture, assembly, processing, testing, and delivery of the proposed deliverable items. The milestone schedule will identify each event by the number of weeks from the date of issuance of a contract or authority to proceed.

156. Restrictive Legends on Proprietary Data (10/1/98). PI's acceptance of any document marked with a restrictive legend does not indicate PI's agreement that information contained therein is proprietary. PI will have the right to reproduce any submitted data, drawings, or other material as required for evaluation purposes only, even though marked with a restrictive legend, under the condition that Bidder's restrictive legends will be included on any reproduction of any such data so marked. It is understood that in the event information contained in submitted documents is already within PI's knowledge, is obtained from any source without restriction, or is for any reason not protectable at law, restrictive markings which purport to cover the information will not be valid with respect to, nor will they be binding upon, PI.

157. Proprietary Data Control (10/1/98). All PI furnished data and information relating to this solicitation, including interface or other technical data of PI's subcontractors or customers which is revealed to Bidder, is considered to be proprietary to PI or PI's subcontractors or customers and all rights therein are reserved. PI hereby provided Bidder the right to use the proprietary data and a limited license to reproduce any copyrighted material from this solicitation based on the following conditions:

- (a) Bidder agrees that by accepting this solicitation and related documents that neither the solicitation data nor any part of the related information disclosed to Bidder will be reproduced or transferred to other documents except for purposes relating to Bidder's response to this solicitation. Bidder agrees not to use or disclose to others, for manufacturing purposes or any other purpose, the data provided except as specifically authorized by PI in this solicitation and any resulting contract.
- (b) Bidder further agrees to respect the confidential nature of the disclosure, oral and/or written, and not to disclose to others except to discuss it with Bidder's own personnel or with subcontractors who agree to respect the confidential nature of this information and the conditions set forth in this clause. The

purpose of revealing this information to Bidder is to permit its employees to evaluate the data and to use the information in the preparation of its response to PI's solicitation. If, at a later date, Bidder desires to use this information for any other purpose, Bidder agrees not to do so unless and until obtaining a contract from PI -- in which case, Bidder's use will be only for the purposes of performing under that contract -- or unless and until it obtains PI's written permission.

- (c) Bidder agrees to destroy or return the data to PI in the event that Bidder is not selected to receive the contract resulting from this solicitation.
- (d) The above obligations will not apply or will cease to apply, as appropriate, to the information disclosed when it can be established by Bidder that the information was in the public domain at the time of this disclosure, such information was known to Bidder prior to this disclosure; or such information has become known to Bidder from an independent source which did not receive it from PI under an obligation of confidence.

PANDJIRIS STANDARD TERMS AND CONDITIONS GUIDE

Section 2: GENERAL TERMS AND CONDITIONS

FIXED PRICE COMMERCIAL GENERAL TERMS AND CONDITIONS (PI 200 DTD 10/1/01)

1. FORMATION OF THE CONTRACT

This order is Pandjiris, Inc.'s ("PI" or "PI's") offer to Seller, and acceptance by Seller is limited to the terms of this offer. PI objects to any additional terms stated in Seller's acceptance. Acceptance may be by prompt written acknowledgment or by beginning performance. Seller's acceptance of this order creates a binding contract between Seller and PI ("this contract"), which shall be governed by the terms and conditions of this order.

2. MODIFICATIONS

None of the terms and conditions of this contract may be contradicted, modified, supplemented, explained, waived, or rescinded except as provided in this contract or in a written agreement signed by both parties. Only an authorized PI purchasing representative may sign on behalf of PI.

3. INSPECTIONS

- (A) Seller will provide and maintain an inspection system acceptable to PI covering goods and services under this contract and will tender only goods that have been inspected and found to conform to this contract's requirements. Seller will keep records evidencing inspections and their results and will make these records available to PI during contract performance and for three years after final payment.
- (B) All goods to be delivered and services to be performed hereunder will be subject to inspection and test, to the extent practicable at all times and places, including the period and place of manufacture or performance, and in any event before acceptance, by PI. PI will perform inspections and tests in a manner that will not unduly delay the work.
- (C) If PI performs an inspection or test on the premises of Seller or its subcontractor, Seller will furnish, and require its subcontractor to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties.

4. QUALITY CONTROL

Seller will provide and maintain a quality control system acceptable to PI for the goods and services purchased under this contract, and Seller will permit PI to review procedures, practices, processes, and related documents to determine such acceptability.

5. DELIVERY

Seller will strictly adhere to the delivery and completion schedules specified in this contract. If, at any time, Seller believes it may be unable to comply with the delivery or completion schedules, Seller will immediately notify PI in writing of the probable length of any anticipated delay and the reasons for it, and will provide PI with a written recovery schedule. Seller will continue to notify PI of any material change in the situation. If Seller fails to deliver goods within the delivery schedule, PI may require Seller to ship goods, at Seller's expense, by air freight or expedited routing.

6. ACCEPTANCE, REJECTION, AND CORRECTION OF DEFICIENCIES

- (A) PI will accept or give notice of rejection of goods delivered and services performed within 90 days of: receipt of goods or completion of services. Acceptance is not conclusive as to latent defects, fraud, or gross mistakes amounting to fraud.
- (B) Goods. If Seller tenders nonconforming goods, PI may, at its option, require Seller to replace or correct the goods, at no increase in contract price. Seller will not tender for acceptance corrected or rejected goods without disclosing the former rejection or requirement for corrections, and, when required, will disclose the corrective action taken. Unless Seller corrects or replaces nonconforming goods within the delivery schedule, PI may require their delivery and make an equitable price reduction.
- (C) Services. If services do not conform with contract requirements, PI may require Seller to perform the services again in conformity with contract requirements, at no increase in contract price. When the defects in services cannot be corrected by re-performance, PI may (i) require Seller to take necessary action to ensure that future performance conforms to contract requirements; and (ii) reduce the contract price to reflect the reduced value of the services performed.
- (D) This Article applies to corrected or replacement goods or services in the same manner as to goods or services originally delivered or performed.

7. WARRANTY

- (A) Goods. Seller warrants that all goods furnished under this contract will be free from defects, will conform with all requirements of this contract, and, to

the extent not manufactured pursuant to designs furnished by PI, will be free from defects in design. Any goods corrected or replaced will be covered by this warranty.

- (B) Services. Seller warrants that all services performed under this contract will be free from defects and will conform to the requirements of the contract. Any services corrected or re-performed will be covered by this warranty.
- (C) If Seller breaches this warranty, PI may, at no increase in contract price (i) require Seller to promptly repair or replace, at Seller's election, defective or nonconforming goods; (ii) require Seller to promptly furnish materials or parts and installation instructions required to successfully accomplish the correction of defective or nonconforming goods, and equitably reduce the contract price to account for the cost of removal and installation; (iii) require Seller to promptly redesign defective or nonconforming goods not manufactured pursuant to designs furnished by PI and require Seller to promptly repair or replace goods manufactured in accordance with such defective design; (iv) require Seller to promptly correct or re-perform, at Seller's election, defective or nonconforming services; or (v) equitably reduce the contract price.
- (D) Notwithstanding any disagreement regarding the existence of a breach of this warranty, Seller will comply with PI's direction to (i) repair or replace, at the Seller's election, the goods or (ii) furnish materials or parts and installation instructions required to successfully repair the goods. If it is later determined that Seller did not breach this warranty, the contract price will be equitably adjusted.

8. CHANGES

- (A) PI may, at any time, by written order signed by its authorized purchasing representative, and without notice to sureties, if any, make changes within the general scope of this contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; (iii) place of delivery; (iv) description of services to be performed; (v) time of performance of services (i.e., hours of the day, days of the week, etc.); (vi) place of performance of services; or (vii) delivery schedule.
- (B) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the contract price, the delivery schedule, or both, will be equitably adjusted, and the parties will modify this contract in writing.
- (C) Unless otherwise agreed in writing, Seller must assert its right to an

adjustment under this clause within 30 days from the date of receipt of the written change order. However, PI may consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, PI will have the right to prescribe the manner of the disposition of the property. PI may examine any of Seller's pertinent books and records to verify the amount of Seller's claim.

- (D) Notwithstanding any dispute under this Article, Seller will proceed with performance of this contract as changed.

9. INVOICE AND PAYMENT

- (A) For each shipment of goods or completed item of services, Seller will submit an original invoice marked "Original:" and one copy marked "Copy" to the PI Accounts Payable Department. Taxes, if any, must be separately itemized. Order number and line item number must appear on all invoices, shipping documents, quality certificates, and packing sheets.
- (B) Determination of payment due date, whether under net or discount terms, will be based on the latest of (i) the date goods are received or services performed; (ii) the date provided in this contract for receipt of goods or completion of services, or (iii) the date an accurate invoice is received in the Accounts Payable Department specified elsewhere in this contract.
- (C) Payment will be deemed to have been made when deposited in the mail.

10. TERMINATION FOR CONVENIENCE

- (A) PI may terminate performance of work under this contract in whole or, from time to time, in part, by delivering to Seller a written Notice of Termination specifying the extent of termination and the effective date.
- (B) PI will pay Seller (i) the contract price for goods and services completed and accepted but not previously paid for; (ii) reasonable costs incurred in performance of work terminated but not completed; (iii) reasonable profit on work terminated but not completed; and (iv) reasonable costs incurred as a result of the termination, adjusted for any savings allowed by the termination. However, if it appears that Seller would have suffered a loss on the entire contract had it been completed, PI will pay no profit and will reduce the settlement to reflect the indicated rate of loss. In no event will PI pay Seller more than the contract price.
- (C) Seller will submit to PI a fully supported written termination settlement proposal within 90 days after receipt of a Notice of Termination, and PI and

Seller will promptly negotiate a termination settlement. Failure to agree upon a settlement will be a dispute. PI may examine any of Seller's books and records relevant to the amount Seller should be compensated for the termination. If Seller fails to timely submit a termination settlement proposal, PI will determine the amount due under paragraph (B), if any, and Seller will be bound by PI's determination.

- (D) If the termination is partial and Seller submits to PI a written proposal for equitable adjustment within 90 days after receipt of the Notice of Termination, the parties will equitably adjust the price of the continued portion of the contract if failure to adjust the price would be unfair to the Seller.

11. CANCELLATION FOR DEFAULT

- (A) PI may, by written notice of default to Seller, cancel this contract in whole or in part (i) if Seller fails to deliver goods or to perform services within the time specified by this contract or any written extension; (ii) if Seller fails to perform any other provision of this contract or fails to make progress, so as to endanger performance of this contract, and, in either of these two circumstances, does not cure the failure within ten days after receipt of notice from PI specifying the failure; or (iii) in the event of Seller's suspension of business, insolvency, institution of bankruptcy, liquidation proceedings by or against Seller, appointment of a receiver for Seller's property or business, or any assignment, reorganization, or arrangements by Seller for the benefit of its creditors.
- (B) Seller will continue work not canceled.
- (C) IF PI cancels this contract in whole or in part, in addition to remedies provided by law, PI may require Seller to transfer title and deliver to PI, as directed by PI, (i) any completed goods, and (ii) any partially completed goods 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 contract. Upon direction from PI, Seller will also protect and preserve property in its possession in which PI has an interest.
- (D) PI will pay the contract price for goods or services accepted. Payment for manufacturing materials accepted by PI and for the protection and preservation of property will be at a price determined in accordance with Article 10 hereof, except that Seller will not be entitled to profit. PI may withhold from any amount due under this contract any sum PI determines to be necessary to protect PI against loss because of outstanding liens or claims

of former lien holders.

- (E) If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the parties will be as if the contract has been terminated in accordance with Article 10 hereof.

12. PI PROPERTY

Seller will clearly mark, maintain an inventory of, and keep segregated or identifiable all PI property and all property to which PI acquires an interest by virtue of this contract. Seller assumes all risk of loss, destruction, or damage to such property while in Seller's possession, custody, or control, and will not use such property other than in performance of this contract without PI's written consent. Seller will notify PI if PI property is lost, damaged, or destroyed. As directed by PI, upon completion, termination, or cancellation of this contract, Seller will deliver such property, to the extent not incorporated in delivered end products, to PI in good condition subject to ordinary wear and tear and normal manufacturing losses.

13. NONDISCLOSURE

Neither party will, without the prior written consent of the other, reproduce, use, or disclose to any employee or third party any proprietary information or data furnished by the other party, except as required to perform this contract. Any information or data must be clearly marked as proprietary to qualify for nondisclosure. This restriction does not apply to information or data; (i) in the public domain through no breach of this contract by the recipient, (ii) otherwise known to the recipient at the time of receipt without restrictions as to use or disclosure, or (iii) acquired by the recipient from a source other than the disclosing party that has the right to disclose such information to the recipient.

14. PATENT, TRADEMARK, COPYRIGHT, AND MASK WORK INDEMNITY

Seller agrees to indemnify and hold harmless PI against any expense, loss, or liability for any actual or alleged infringement of any patent, trademark, copyright, or mask work arising from or related to the use, sale, manufacture, disposal, display, or reproduction of goods purchased or services performed under this contract. Upon timely receipt of notice of any claim or suit alleging such infringement, Seller agrees to defend PI at Seller's expense. Seller is excused from its duties under this Article if such actual or alleged infringement would not have arisen but for Seller's compliance with PI's detailed design.

15. PATENT, TRADEMARK, COPYRIGHT, MASK WORK TITLES

Seller will promptly disclose to PI in writing any invention, works of authorship, improvement, development, discovery, or mask work conceived or reduced to practice by

Seller, either solely or in collaboration with others, using funds paid by PI under this contract. Seller will assign all such inventions, works of authorship, improvements, developments, discoveries, or mask works to PI. Seller will execute all documents and do whatever is reasonably necessary to ensure that PI will obtain full title to such inventions, works of authorship, improvements, developments, discoveries, or mask works and to enable PI to secure copyright protection or to file and prosecute applications for patents at PI's expense.

16. SUBCONTRACTING AND ASSIGNMENT

- (A) Without PI's written consent, Seller will not delegate any duty of performance or subcontract for the design, development, or procurement of any substantial portion of goods or service under this contract. This limitation does not apply to Seller's purchases of standard commercial supplies or raw materials.
- (B) Except as hereinafter provided, neither this contract nor any duty, right, or interest therein may be delegated, assigned, or otherwise transferred in any manner by Seller without the prior written consent of PI. Any attempted effort to the contrary will be void and PI may cancel this contract. Either party may, upon notice to the other, assign this contract to any person, firm, or corporation with which such party may merge or consolidate or to which such party may assign substantially all of its assets, and either party may assign claims for monies due or to become due hereunder to any bank, trust company, or other financial institution, including any governmental lending agency. The assigning party will furnish the other party with two signed copies of any such assignment and such other documents that may be reasonably required by the non-assigning party.
- (C) Seller agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a percentage-of-cost basis.

17. SUSPENSION OF WORK

- (A) PI's authorized purchasing representative may, by written order, suspend all or part of the work to be performed under this contract. Within 90 days of the suspension of work order, or within any additional time as the parties may agree, PI will (i) cancel the suspension of work order; (ii) terminate this contract in accordance with Article 10 hereof; or (iii) cancel this contract in accordance with Article 11 hereof.
- (B) Seller will resume work whenever a suspension expires or is canceled. An equitable adjustment will be made in the delivery schedule, the contract price, or both, if (i) this contract is not canceled or terminated for convenience, (ii) the suspension results in a change in Seller's cost of performance or ability to

meet the contract delivery schedule, and (iii) Seller submits a claim for adjustment within 30 days after the suspension expires or is canceled.

18. DISPUTES

- (A) Pending final resolution of any dispute arising under, relating to, or involving this contract, Seller agrees to proceed with performance of this contract, including the delivery of goods, in accordance with PI's instructions. Seller's failure to proceed in accordance with PI's instructions shall be considered a material breach of this contract.
- (B) Both parties agree to enter into good faith negotiations to resolve any dispute that arises under, is related, or involves this contract. If the dispute is not disposed of by agreement, Seller will submit to PI's authorized purchasing representative a written demand for PI's final decision regarding the disposition of any such dispute, unless PI, on its own initiative, has already rendered such a final decision. Any final decision will be expressly identified as such, will be in writing, and will be signed by an authorized officer of PI. PI's final decision shall be conclusive and binding regarding the dispute unless Seller commences an action to contest such decision within 90 days following the date of the decision or one year following the accrual of the cause of action, whichever is later.

19. APPLICABLE LAW

This contract will be governed by and construed in accordance with the law of the state of Missouri, with no consideration to that state's conflict of laws rules, regardless of the places of execution or performance of this contract.

20. WAIVER AND SEVERABILITY

Any action or inaction by PI or the failure of PI, on any occasion, to enforce any right or provision of this contract will not be construed to be a waiver by PI of its rights hereunder and will not prevent PI from enforcing such provision or right on any future occasion. A determination that any portion of this contract is unenforceable or invalid will not affect the enforceability or validity of any of the remaining portions of this contract.

21. RIGHTS AND REMEDIES

The rights and remedies of the parties set forth in this contract are cumulative and in addition to any other rights or remedies that they may have at law or in equity. PI may offset any damages resulting from a breach of any contract between PI and Seller against the price due under any other such contract.

22. COMPLIANCE WITH STATUTES AND REGULATIONS

(A) Seller will comply with all applicable statutes and government rules, regulations, and orders.

(B) Compliance with EEO Laws: PI serves from time to time as a contractor for the United States Government. Accordingly, Seller shall comply with all federal laws, rules and regulations applicable to subcontractors/vendors of Government contractors including those related to equal employment opportunity and affirmative actions in employment to minorities and women (Executive Order 11246, as amended), individuals with disabilities (Section 503 of the Rehabilitation Act of 1973, as amended) and Vietnam era/disabled veterans (Vietnam Era Veterans Readjustment and Assistance Act of 1974, as amended, 38 USC 4212). These clauses, required by the Government, are incorporated herein by reference.

C. Certification and Disclosure regarding payments to influence certain federal transactions (*If the acquisition is at or below the Simplified Acquisition Threshold [SAT] of \$100,000.00, or is otherwise exempt per FAR 3.808, so indicate and cite the basis for the exemption in Seller's offer.*)

- (a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, are hereby incorporated by reference in paragraph (b.) below in Seller's certification.
- (b) The Seller, by signing its offer, hereby certifies to the best of Seller's knowledge and belief that on or after December 23, 1989, that
 - (i) no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
 - (ii) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the Seller shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to PI; and
 - (iii) Seller will include the language of this certification in all

subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

- (c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure

23. PRECEDENCE

- (A) If the various parts of this contract are inconsistent, the following order of precedence will apply; (i) special terms and conditions; (ii) the terms and conditions in this guide; (iii) specifications; (iv) all other attachments incorporated in this contract by reference.
- (B) PI's specifications will prevail over any subsidiary documents referenced therein. Seller will not use any specification in lieu of those contained in this contract without the written consent of PI's authorized purchasing representative.

24. NEWS RELEASES AND PUBLIC ANNOUNCEMENTS

Seller will not make, deny, or confirm any news release, advertisement, or public announcement concerning the subject matter of this contract or any phase of the program hereunder without "PI's prior written approval.

25. PACKING

- (A) All goods are to be packed and packaged for protection during shipment and storage in accordance with best commercial practice or ASTM-D-3951. If Government specification packaging is required, goods are to be packed and packaged in accordance with said specification(s). Highly polished, highly finished, or precision parts are to be properly preserved and packed in containers which will afford physical protection against damage and deterioration. Where appropriate, a shipment consisting of two or more shipping containers will be combined into a unitized load. A unitized load will be limited to 50 inches overall height, on a 42 inch X 48 inch pallet (double deck construction), with no more that a 4 inch overhang on any one side. All unitized loads consisting of multiple

containers will be properly stacked and bound, i.e. an efficient stacking pattern, bound by stretch wrap. Any single container over 150 pounds or 60 inches or greater footprint must integrate a four-way entry skid to permit the use of standard material handling equipment. Items packaged with nonconforming packaging are subject to rejection and repackaging at Seller's expense.

- (B) Each container will be marked with PI's contract number. Each container of a multiple container shipment will be identified to show the number of the container and the total number of containers in the shipment. The packing sheet will be enclosed in or attached to the number one container. All shipments regardless of originator must include packing sheets containing PI's contract number, quantity, part number/size, and description of the items shipped. Material for different contracts will be listed on separate packing sheets.

26. SHIPPING INSTRUCTIONS

Seller will ship the goods in accordance with the instructions set forth below and the specific routing terms incorporated in this contract.

(A) Shipping Documentation

- (i) All items shipped on the same day will be consolidated on one Bill of Lading or Airbill, unless otherwise authorized by PI.
- (ii) Material will be described on shipping documents (Bill of Lading or Airbill) in accordance with the applicable classification and/or tariff.
- (iii) The total number of shipping containers will be referenced on all shipping documents.
- (iv) The PI contract number will be referenced on all shipping documents.
- (v) Originals of all Government Bills of Lading will be surrendered to the origin carrier at the time of shipment.
- (vi) The memorandum/consignee copy of Bill of Lading or Airbill will be mailed to PI's authorized purchasing representative.

(B) Freight Terms

- (i) "Prepay and Add" is not authorized.

- (ii) Seller must ship "Collect" to Pandjiris, Inc. on all F.O.B. Origin shipments.
- (iii) Third Party/Direct Shipments must adhere to the instructions set forth herein and, if PI is responsible for the freight costs, must be shipped "Third Party Collect" to PI.

(C) Air Shipments

Air shipments must be authorized by PI. Prior to making such shipments, Seller will contact PI's authorized purchasing representative for the applicable carrier account number.

(D) Specialized Shipments

Seller will contact PI's authorized purchasing representative prior to shipping the following types of shipments.

- (i) Classified Shipments
- (ii) Electronics
- (iii) Explosives
- (iv) Over-Dimensional shipments
- (v) Refrigeration shipments
- (vi) Shipments exceeding 5000 pounds in gross weight
- (vii) Shipments requiring special handling or equipment (i.e., air ride equipment, fragile items, heavy haul trailers, etc)

(E) Insurance

Seller will not insure any shipment unless authorized by PI.

(F) Shipping Container Labels

- (i) Seller will label each shipping container with the contract number.
- (ii) Seller will label each container with the number that each container represents of the total number to be shipped (e.g. Box 1 of 2, Box 2 of 2).

(G) Weights

Weights listed herein and/or in the contract refer to the gross total combined weight of all shipping containers.

(H) Carrier Selection

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

(I) Invoices

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

(J) Noncompliance

- (i) If unable to comply with the instructions in this contract, Seller will contact PI's authorized purchasing representative.
- (ii) Failure to comply with the shipping instructions in this contract will result in Seller being liable for loss or damage in transit. In addition, excess freight charges and a \$50 administrative processing fee will be debited to Seller.

(K) Inquiries or special instructions

Seller will contact PI's authorized purchasing representative with inquiries or requests for special instructions.

27. OFFSET AND CO-PRODUCTION

(This Article applies only if the end-item procured hereunder is controlled by a PI Specification and/or Drawing).

- (A) Seller will use its best efforts to cooperate with PI in the fulfillment of any offset program obligation that PI may have accepted as a condition of the sale of a PI product to a foreign nation.
- (B) PI reserves the right to all "offset" credits resulting from the co-production or other similar obligations entered into between Seller and foreign sources of any goods or services in support of the procurement hereunder. Seller may not procure or offer to procure any goods or services ordered hereunder from any foreign source without the prior written approval of PI. This reservation applies to not only the goods and services ordered hereunder but also to the procurement of additional quantities thereof by means of options or similar commitments obtained by Seller to fulfill anticipated requirements PI may have. Seller may not enter into such procurements from foreign sources to support PI's future requirements without PI's prior written approval.

- (C) While PI's approval under the foregoing paragraph may not be unreasonably withheld, Seller may be required to complete and file all necessary documentation in order to effect the passing through of offset credits to PI as a condition precedent to such approval.

28. NEW ITEMS OF MANUFACTURE

In the event (i) there are any new features of design incorporated in any material, software, article, or machine made under this contract as a result of Seller's compliance with the drawings or specification of PI, (ii) a portion of such development cost is being charged by Seller directly or indirectly to PI and (iii) the material, software, article, or machine to be made hereunder is not merely a slight modification of a material, software, article, or machine with respect to which Seller already possesses patent rights or copyrights, then Seller grants to PI the right to reproduction of such material, software, article, or machine together with a royalty-free, non-exclusive, irrevocable license under any U.S. patent or copyright covering such new features.

29. ADVANCE MANUFACTURE, ADVANCE SHIPMENTS, AND OVER SHIPMENTS

The goods covered by this contract will be delivered in accordance with the delivery schedule. Seller will not, without PI's prior written consent, manufacture in advance of the reasonable flow time required to accomplish delivery in accordance with such schedule, nor will Seller deliver any such supplies in advance of such schedule without PI's written consent. PI reserves the right to return, shipping charges collect, or to store at Seller's expense all such supplies received by PI substantially in advance of such schedule. No over shipments will be accepted except those resulting in good faith from conditions of loading, shipping, packing, or allowances in manufacturing processes, and in no case exceeding (i) five percent of the quantity called for or (ii) the Forging Industry Association quantity tolerated.

30. EXPORT OF TECHNICAL DATA

- (A) Seller represents and warrants that no technical data furnished to it by PI or developed by Seller directly from such data during performance of the work under this contract will be disclosed to any foreign national, firm, or country, including foreign nationals employed by or associated with the United States, without first complying with the licensing, approval, and all other requirements of the U.S. export control laws, regulations, and directives, including but not limited to the Arms Export Control Act (22 UDC 2778), International Traffic in Arms Regulations (22CFR, Part 120-130), Export Administration Act (50 USC 2401-2410 as amended), Export

Administration Regulations (15 CFR Parts 730-799) and DoD Directive 5230.25, Withholding of Unclassified Technical Data from Public Disclosure.

- (B) Seller will obtain the written consent of PI prior to submitting any request for authority to export any such technical data.
- (C) Seller will indemnify and hold PI harmless from all claims, demands, damages, costs, fines, penalties, attorneys' fees, and all other expenses arising from failure of Seller to comply with this Article.

31. EXCUSABLE DELAYS

- (A) Except for defaults of subcontractors of any tier, Seller will not be in default because of any failure to perform this contract under its terms if the failure arose from cause beyond the control and without the fault or negligence of Seller. Examples of these causes are (i) acts of God or the public enemy, (ii) acts of the government in either its sovereign or contractual capacity, (iii) fires, (iv) floods, (v) epidemics, (vi) quarantine restrictions, (vii) strikes, (viii) freight embargoes, and (ix) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of Seller. "Default" includes failure to make progress in the work so as to endanger performance.
- (B) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and the cause of the failure was beyond the control of both Seller and subcontractor, and without fault or negligence of either, Seller will not be deemed to be in default, unless ---
 - (1) The subcontracted goods or services were obtainable from other sources;
 - (2) PI directed Seller in writing to purchase these goods or services from the other source; and
 - (3) Seller failed to comply reasonably with this direction.
- (C) Upon request of Seller, PI will ascertain the facts and extent of the failure. If PI determines that any failure to perform results from one or more of the causes above, the delivery schedule will be revised, subject to the rights of PI under the termination and cancellation articles of this contract.

32. MODIFICATIONS - ENTIRE AGREEMENT

Neither party has rights, warranties, or conditions expressed or implied, statutory or otherwise, other than those herein contained. This contract contains the entire agreement

between Seller and PI and can be modified or rescinded only by a writing signed by both parties. No waiver of any provision of this contract shall be binding unless in writing signed by an authorized representative of the party against whom the waiver is asserted, and unless expressly made generally applicable shall apply only to the specific case for which the waiver is given.