



Standard PO Terms and Conditions - Canada

POWELL CANADA, INC. PURCHASE ORDERS

1. DEFINITIONS

1.1 "Acceptance" or "Accepted" shall mean Buyer's written or electronic acknowledgment that all Goods and Services described in the Purchase Order have been received, inspected, and appear to be in compliance with the Contract Documents; provided, however, that Acceptance shall not constitute a waiver of any defect in materials and workmanship or failure to comply with the Contract Documents. Unless otherwise specified in the Purchase Order, Buyer's obligation to make payment shall not commence until Acceptance of all Goods and Services described in the Purchase Order, and payment shall be due the number of days after Acceptance specified in the Purchase Order.

1.2 "Buyer" shall mean Powell Canada, Inc. for itself and/or any of its subsidiaries or operating divisions.

1.3 "Contract Documents" shall mean the Purchase Order, these Terms and Conditions, and any plans, specifications, addenda or other documents attached or referred to, or incorporated into the Purchase Order; provided, however, if Buyer and Supplier have a master supply agreement in place it shall control over these Terms and Conditions.

1.4 "Company Data" shall mean any and all information, including Confidential Information, concerning Buyer or Customer, their affiliates and their respective businesses in any form, or to which the Buyer or Customer or its affiliates have access, requiring reinforced protection measures, including but not limited to private or secret information, personally identifying information, financial data, commercially sensitive information, strategic business information, credentials, encryption data, system and application access logs, or any other information that may be subject to regulation.

1.5 "Customer" means any person or entity to which Buyer sells or conveys any of the Goods or Services described in the Purchase Order, or any product manufactured, fabricated or assembled by Buyer, in whole or in part, which contains, incorporates or uses in any way any of the Goods and Services.

1.6 "Data Security Breach" means: (a) the loss or misuse (by any means) of Company Data; (b) the inadvertent, unauthorized and/or unlawful processing, corruption, modification, transfer, sale or rental of Company Data; or (c) any other act, omission or circumstance that compromises the security, confidentiality, or integrity of Company Data, including but not limited to incidents where Company Data has been damaged, lost, corrupted, destroyed, or accessed, acquired, modified, used, or disclosed by any unauthorized person, by any person in an unauthorized manner, or for an unauthorized purpose.

1.7 "Destination" shall mean the location or facility to which the Goods are to be delivered, as indicated in the "Ship To" block on the Purchase Order, or as otherwise designated by Buyer.

1.8 "First Use" shall mean the date on which any of the Goods or Services purchased hereunder, or any component, machinery, system, equipment or process into which any such Goods or Services are incorporated, are first powered up and used for actual operations by Powell or its Customer after completion of all installation, commissioning, inspection or trial service periods.

1.9 "Goods" shall mean all of the merchandise, material, equipment, machinery, systems, parts and other personal property described on the Purchase Order or on any of the plans, specifications or other documents

attached, referred to or incorporated into the Purchase Order, and shall include any Services necessary to fabricate, manufacture, assemble, deliver, install, test, operate and startup (if applicable) all of the Goods.

1.10 "Intellectual Property" shall mean all inventions, patents, patent applications, know-how, trade secrets, design rights, copyrights, trademarks, and other proprietary rights relating to intangible property.

1.11 "Purchase Order" shall mean Buyer's Purchase Order to which these Terms and Conditions shall apply, or the release under a Purchase Order, as applicable.

1.12 "Services" shall mean all work or services described on the Purchase Order, including all Services included in the definition of Goods.

1.13 "Supplier" shall mean the person or entity named on the face of the Purchase Order, together with its affiliates, subsidiaries and successors as appropriate to the context.

1.14 "Terms and Conditions" shall mean all of these Purchase Orders Terms and Conditions, together with any Terms and Conditions specified in the face of the Purchase Order or included within any plans, specifications or other Contract Documents.

2. AGREEMENT

2.1 Supplier agrees to provide the Goods or Services described in the Purchase Order at the price specified in the Purchase Order in accordance with the Terms and Conditions and other Contract Documents.

2.2 A written acknowledgment of all or any part of this Purchase Order; the furnishing of all or any part of the Goods or Services; acceptance of payment under the Purchase Order; and/or the commencement of performance of any part of the Purchase Order shall constitute an unqualified and complete acceptance of this Purchase Order, the Terms and Conditions and all the Contract Documents.

2.3 Any acceptance of a Purchase Order is limited to acceptance of the express terms contained in the face thereof and in these Terms and Conditions. Any additional terms, conditions or limitations proposed by Supplier in any form are objected to and rejected, unless expressly agreed to in a separate writing by Buyer. Any attempt by Supplier to vary any of the Terms and Conditions of the Purchase Order shall be deemed material and are objected to and rejected.

3. PRICE

3.1 The unit price as stated on the Purchase Order shall not include additional charges. Additional fees shall be itemized on the invoice, such as any and all applicable taxes (including any Goods or Services Tax, Harmonized Sales Tax, Provincial Sales Tax and Excise Tax). Any other charges for shipping, packaging, labeling, customs duties, taxes, storage, insurance, boxing, crating, and delivery to and loading on or in the transport system specified in the Purchase Order, must be approved by the Buyer and itemized on the invoice. All federal, provincial and/ or territorial sales, use or similar taxes applicable to the good and services shall be stated separately and identified on Supplier's invoices and billing documents including the GST registration number together with all other particulars as may be required by Buyer to substantiate claims for input tax credits in respect of GST

charged by Supplier. Supplier warrants that the prices for the Goods or Services are not less favorable than those currently extended to any other customer for the same or similar Goods or Services in similar quantities. In the event Supplier reduces its price for such Goods or Services prior to completion of this order, Supplier agrees to reduce the prices hereof correspondingly..

4. PAYMENT

4.1 Unless otherwise stated in the applicable Purchase Order, payment terms are net sixty (60) days after the date on which (i) Buyer has received an invoice in compliance with the terms of the Purchase Order, together with all other documentation required herein; (ii) all of the Goods have been correctly and timely delivered, or the Services performed, in strict compliance with the Terms and Conditions; and (iii) Buyer has Accepted all of such Goods or Services in writing. Unless otherwise specified in the Purchase Order, payment shall not be due until all Goods or Services have been delivered and performed, and Buyer shall not be obligated to make deposits, prepayments, or partial payments of any kind. The Buyer reserves the right to return immediately any invoice to Supplier associated to the Purchase Order if the contents of such invoice(s) contain administrative errors. If Buyer disputes any of the submitted costs or fees contained in an invoice, Buyer will review the supporting documentation for the applicable invoice and, if Buyer confirms that those charges should not have been billed or were over-billed, Supplier will credit Buyer those charges. Any invoices returned to Supplier by Buyer due to such non-conformities and/or errors shall be re-issued by Supplier and payment(s) shall be made in accordance with the date in which the invoice is re-submitted.

4.2 In the event Supplier delivers nonconforming Goods or Services, payment shall not be due until the number of days set forth on the Purchase Order after all nonconforming Goods or Services have been repaired, replaced, or corrected in accordance with the terms hereof, and accepted by Buyer in writing; provided, however, that if Buyer purchases any part of the Goods or Services from any other person or entity, after any breach by Supplier, including failure to timely deliver or delivery of nonconforming Goods or Services, payment shall not be due until the number of days set forth on the Purchase Order after the Buyer has had a reasonable opportunity to determine all costs, liability or other expenses incurred by Buyer to repair or replace any defective or nonconforming goods.

4.3 Neither physical receipt of Goods or Services, nor payment of Supplier's invoice in order to secure cash discounts, shall constitute Acceptance of any Goods or Services.

4.4 If a retention is mutually agreed by the Parties as stated in the Purchase Order, then each invoice shall be subject to such agreed retention by the Buyer. Such retentions shall be paid to Supplier upon Supplier's final completion of its obligations under the Purchase Order, and Buyer's final acceptance thereof.

4.5 Without waiver or limitation of any rights and/or remedies of Buyer, Buyer shall be entitled from time to time to deduct or set-off against any part of amounts due or to become due to Supplier under this Agreement or against any retainage, any other amounts that are due by Buyer in connection with this Agreement or any other contract, agreement or course of dealing with Supplier. In addition, Buyer reserves the right to pay any amount to Supplier's sub-suppliers and/or sub-contractors associated with a Purchase Order if there is sufficient evidence that Seller has become negligent or has failed to fulfill its payment obligations to such parties.

5. DELIVERY

5.1 Time of performance is of the essence of this Agreement. Supplier's failure to deliver Goods or Services to the Destinations on the "Deliver Date"

specified in the Purchase Order shall constitute a material breach. Supplier shall be entitled to an extension of time only to the extent that Buyer is so entitled under its contract with its Customer and is actually granted such extension, or unless Buyer expressly consents to such extension in writing. Supplier shall be liable to Buyer for all damages, costs, loss, liability or expense, which Buyer may sustain by reason of failures or delays in delivery of Goods or Services or delivery of nonconforming Goods or Services including, without limitation, damages assessed against Buyer by its Customer. If Goods or Services are not delivered at the time and Destination specified, Buyer may, in addition to all other rights and remedies hereunder or available at law, cancel the Purchase Order, in whole or in part, purchase or otherwise acquire all, or any part of the Goods or Services from any other person or entity, deduct all of the costs, liability and expense thereof from any amounts otherwise due Supplier, and recover from Supplier any excess costs, liability or expense incurred by Buyer.

5.2 Supplier represents that it is familiar with Buyer's routing guide and agrees to comply with the routing guide with respect to all shipments. The routing guide is accessible at www.powellind.com (select "Our Company", then select "Supply Chain", and then select "Inbound Routing Guide and Training Document"). If Supplier ships by a more expensive way than specified therein, any increased transportation or other cost resulting there from shall be paid by Supplier.

5.3 Supplier shall note Buyer's Purchase Order number on all bills of lading, shipping labels, invoices, packages, pallets, containers, and all other documents generated in the course of fabrication, shipment and delivery of the Goods. Failure to include such Purchase Order number shall be deemed a material breach of Supplier's obligations hereunder.

5.4 Supplier shall furnish shipment labels and/or packing lists for all Goods. All labels or parts lists must contain the Purchase Order number, part number and unit quantity. This label should be positioned on the outside of the packaging and be front facing where applicable. Supplier shall combine in the same bill of lading, all shipments consigned to the same Destination and shipped on the same day.

5.5 For all goods shipped from within, or into, the United States of America, which contain materials deemed "hazardous" under applicable law, Supplier shall furnish all Material Safety Data Sheets applicable to the Goods, and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated there under. Additionally, Supplier shall insure that all packaging, labeling and shipping of any substances that are deemed "hazardous" under applicable international, United States, state or local law, shall be packaged, labeled and shipped in accordance with all applicable international, United States, state or local laws and regulations.

5.6 Each delivery of Goods must include a statement of origin and harmonized tariff code for each item, which must be contained in Supplier's invoice for all Goods. For deliveries from the United States or Mexico, a Certificate of Origin, or a properly completed CUSMA Certificate of Origin must be furnished with each delivery of Goods.

5.7 Each delivery of Goods shall include a complete set of instructions, in English, in both written and electronic format for the installation, startup, operation and maintenance of all systems, equipment, machinery or components of the Goods and all warranty information in conformance with the Terms and Conditions.

5.8 Buyer reserves the right to expedite any Goods, Services, fabrication, equipment, and/or material, and Supplier shall afford all reasonable access and facilities to Buyer for the purpose of expediting, inspection and testing of the Goods, and review of applicable Contract Documents. Such inspection, expediting and/or action taken by Buyer shall not relieve Supplier of any obligations or liability under the Contract Documents. Following Buyer's notice of expedition, Supplier shall notify Buyer, in writing, of any actual or anticipated delays immediately upon discovery. Such notice will include the cause of the delay, what activity/item is

affected, overall delivery impact, and the Supplier's recovery plan. Upon request by Buyer, Supplier shall appoint a person responsible for providing complete and reliable expediting information on Purchase Orders, engineering and/or fabrication status to include supply scheduling, design and work progress, issuance and progress of any sub-orders, critical sub-orders and expected delivery dates.

6. TITLE AND RISK

6.1 All shipments originating and being delivered to destinations within Canada, shall be shipped in accordance with Incoterms 2020 as designated on the Purchase Order. Terms default to DAP the final destination point if not specified on the Purchase Order.

6.2 All shipments originating or being delivered to destinations outside of Canada, shall be shipped in accordance with Incoterms 2020 as designated on the Purchase Order. Terms default to DDP the final destination if not specified on the Purchase Order.

6.3 Title to, and risk of loss of all Goods shall remain with Supplier until delivered to Destination in accordance with the applicable Incoterms.

7. INSPECTION AND ACCEPTANCE

7.1 Buyer shall have a reasonable time (no less than thirty (30) days) after delivery of all Goods or performance of all Services to inspect such Goods or Services, and shall further have the right to inspect all Goods during the period of manufacture, fabrication or assembly, and at all other times and to reject any or all Goods or Services which do not conform to the Purchase Order, these Terms and Conditions or the Contract Documents. Goods rejected and Goods supplied in excess of quantities specified herein may be returned to Supplier at Supplier's expense, in addition to Buyer's other rights. Supplier shall pay or reimburse Buyer for all expenses for unpacking, examining, repacking and reshipping such excess Goods. In the event defects or nonconformity in Goods are not apparent upon examination, Buyer shall not be deemed to have waived such defect or non-conformity by acceptance, payment or any other act or omission.

7.2 At Buyer's option, Supplier shall repair or replace all damaged, defective, or nonconforming Goods or, Buyer may obtain such Goods from other sources, or cause the same to be repaired or replaced by a third party at Supplier's expense.

7.3 To the extent that any of the Goods require design services of any kind by Supplier, or any of its subcontractors, suppliers or vendors, Buyer shall have the right to review all progress prints, computer images, draft documents, working calculations, draft specifications or reports, drawings, specifications or other designed documents. To the extent that any of the foregoing are disapproved or rejected by Buyer, Supplier will not fabricate nor deliver any Goods until Buyer's objections to such designs, drawings or specifications shall have been resolved. Any review or approval of drawings and specifications by Supplier shall not constitute approval of any goods, nor Acceptance of any Goods or Services.

7.4 Buyer reserves the right for Buyer and its Customer to inspect the supplier's location of manufacture or service. Supplier's vendors and sub-suppliers location of manufacture shall also be subject to inspection by Buyer and its Customer to the same extent.

8. CHANGES, CANCELLATION & SUSPENSION

8.1 Buyer may, at any time, by written change order and without notice to Supplier make changes to the scope of work under a Purchase Order. If any such change increases or decreases the cost or the time required for the provision of the work, an equitable adjustment may be made to the price and/or

schedule. Unless adjustments are expressly agreed upon in the Purchase Order, Supplier's right to an equitable adjustment in compensation, schedule, or both, as a result of any change initiated by Buyer is expressly conditioned upon Supplier providing Buyer with a written request for adjustment within five (5) days after receipt of Buyer's notice of change. Supplier's request for an equitable adjustment in compensation, schedule, or both must include a statement setting forth in reasonable detail Supplier's estimate of the change in its costs or the schedule, if any, together with any proposed adjustment in compensation, schedule, or both. Failure to request a change within five (5) days of the date Supplier knew or should have known of the need to request such a change shall be deemed a waiver of the right to a change for that occurrence. Supplier shall proceed with its performance obligations as changed prior to or pending agreement upon an equitable adjustment in the compensation, performance schedule, or both, and shall not halt or delay performance of the work because of any failure so to agree.

8.2 Buyer reserves the right to partially or completely cancel the Purchase Order at any time in its sole discretion by written notice to Supplier. Supplier will immediately cease all procurement, production and shipment of Goods. Buyer shall be obligated to pay only the costs incurred by Supplier which are attributable to the procurement, production and shipment of materials completed prior to the date of cancellation. Buyer shall not be charged for cancellation charges, nor restocking charges, unless otherwise specified on the Purchase Order. All materials and partially completed work for which Supplier receives payment shall become the sole property of Buyer and shall be held free of charge for a period of 60 days after payment of Supplier's invoice, pending receipt of Buyer's disposition instructions.

8.3 Buyer may also terminate this Purchase Order, or any part thereof without liability to Buyer for cause in the event of any default by Supplier or if Supplier fails to comply with the Purchase Order, these Terms and Conditions or the Contract Documents, including late or incomplete deliveries, delivery of defective goods, or failure to provide Buyer upon request, reasonable assurances of future performance. In the event of termination by reason of default, Supplier shall be liable to Buyer for any and all damages sustained by Buyer.

8.4 Buyer may suspend all or any part of a Purchase Order at any time for its sole convenience by written notice to Supplier. Upon receiving notice of suspension, Supplier shall promptly suspend work to the extent specified, properly caring for and protecting all work in progress and materials, supplies and equipment Supplier has on hand for performance. Upon Buyer's request, Supplier shall promptly deliver to Buyer copies of outstanding purchase orders and subcontracts for materials, equipment and/or services for the work and take such action relative to such purchase orders and subcontracts as Buyer may direct. Buyer may at any time withdraw the suspension as to all or part of the suspended work by written notice specifying the effective date and scope of withdrawal. Supplier shall resume diligent performance on the specified effective date of withdrawal. All claims for increase or decrease in the cost of or the time required for the performance of any work caused by suspension shall be pursued pursuant to a change order request; provided, however, Supplier shall provide Buyer with ninety (90) calendar days of free storage.

8.5 If a Purchase Order is terminated for cause and a court later determines that good cause did not exist to terminate this Purchase Order, the termination will be deemed a termination for Buyer's convenience pursuant to Section 8.2 of these Terms and Conditions, but in no event shall such termination costs include any amounts based on lost or unrealized profits, revenues, opportunities or other indirect, special or consequential damages.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 Each Party shall retain sole ownership of all Intellectual Property that (i) was the property of one Party prior to the Effective Date, or (ii) is independently developed or acquired outside the scope of this Agreement ("Background Intellectual Property"). Neither Party shall acquire any right, title, or interest in or to any Intellectual Property of the other Party unless otherwise expressly provided herein; provided, however, any Intellectual Property developed by Supplier with the use of Buyer's and/or Customer's Confidential Information shall constitute a

“work made for hire” and be owned by Buyer. Further, if any Supplier’s Intellectual Property is used in and become integral with the Goods, Services or any work product, or is necessary for Buyer to have complete enjoyment of the Goods, Services or work product, Supplier hereby grants to Buyer an irrevocable, assignable, nonexclusive, perpetual, royalty-free unrestricted license as may be required by Buyer and Customer for complete enjoyment of the Goods, Services and work product, including without limitation, the right to sell, use, copy, correct, repair, replace, maintain, translate, modify, publish, dispose of, distribute and make derivatives of any or all of the Goods, Services and work product and grant sublicenses to others (including Customer) with respect to the Goods, Services and work product.

9.2 Upon delivery of Goods and Services or other work product by Supplier to Buyer and fulfillment of Buyer’s payment obligations to Supplier, Buyer shall own the Products purchased and shall enjoy all rights of resale, use, research, development, modification, and improvement, subject to any registered Intellectual Property rights of Supplier. If the Goods, Services or work product contains Intellectual Property of third parties, Supplier shall procure, at no additional cost to Buyer, all necessary licenses regarding such third-party Intellectual Property rights so as to allow Buyer and Customer the complete enjoyment of the Goods, Services and work product. All such licenses shall be in writing and shall be irrevocable and royalty-free to Buyer and Customer.

10. CONFIDENTIALITY

10.1 Supplier shall cause itself, and each of its employees, agents, and subcontractors to hold in confidence, any and all information contained on the Purchase Order or in any of the Contract Documents, together with all information obtained from Buyer or communicated to Supplier in connection with this Purchase Order whether before or after the acceptance hereof and including all information about the Goods or Services, the Customer, the plans and specifications, all prices and financial information of any kind or character (all of which is referred to as the Confidential Information). Supplier shall not, and shall take reasonable steps to insure that its employees and subcontractors do not, disclose any Confidential Information to any other person or entity and use Confidential Information solely for the purpose of performing Supplier’s (or such subcontractor’s) obligations under the Purchase Order.

10.2 In the event of any actual or threatened breach of the provisions of this Agreement regarding Confidential Information, Buyer shall have the right, without the need to post bond, to seek and obtain injunctive, equitable, or any other relief in a court of competent jurisdiction. For such purpose, Supplier consents to the jurisdiction of the federal or provincial courts for the Province of Alberta, and acknowledges that all obligations regarding Confidential Information are performable at Buyer’s offices in Acheson, Alberta, Canada. To the extent permitted by applicable law, the parties agree that venue of any action to enforce the confidentiality provisions of this Agreement shall be brought exclusively in the Court of King’s Bench at Edmonton, Alberta.

10.3 Supplier shall not release any advertising, public relations or press release mentioning Buyer, or any of the Goods or Services, nor quoting any statements by Buyer or any of Buyer’s employees, without the prior written consent of Buyer.

11. WARRANTIES

11.1 Unless otherwise specified in the Purchase Order, Supplier warrants that for the greater of: (i) eighteen (18) months (or longer if stated by Supplier’s warranty provisions) from the date of Acceptance or (ii) one (1) year from First Use, all Goods or Services shall be free from defects in design, materials and workmanship; shall conform to all specifications, drawings, and other requirements of this Purchase Order, including any performance specifications, drawings or samples; and are new. Supplier warrants that all Goods or Services are merchantable, safe and appropriate for the purposes for which Goods or Services of that kind are customarily used. Supplier warrants that all Goods or Services are fit for the particular purposes reflected or described in the Contract Documents. Inspection, testing, acceptance or use of the Goods or

Services shall not affect Supplier’s obligation under this warranty, and all such warranties shall survive inspection, testing, acceptance and use. This warranty shall run in favor of Buyer, its successors, assigns, customers and users of any products or services sold or furnished by Buyer. Promptly upon notification from Buyer (and in any event within ten (10) days), Supplier agrees to replace, repair or correct defects in any Goods or Services not conforming to the foregoing warranty, and without expense to Buyer, any Customer or any other user of products sold by Buyer, including the cost of removal, transport and re-installation of any defective, repaired or replaced Goods or Services. If Supplier fails to correct such defects or replace nonconforming Goods or Services promptly, Buyer may make such corrections or replace such Goods or Services and charge Supplier for the costs incurred by Buyer in doing so.

11.2 If Supplier is responsible for any part of the design of any of the Goods or Services, Supplier warrants, for the same period of time, that all Goods or Services delivered under this Purchase Order are free of defects in design, meet all specified performance requirements of Buyer and are fit and sufficient for the purposes intended by Buyer.

11.3 Supplier warrants that each chemical substance constituting or contained in any of the Goods is on a list of chemical substances compiled and published as required by applicable federal, provincial or local laws.

11.4 Supplier warrants that all Goods and Services are sold and conveyed to Buyer free and clear of any lien, claim or any other encumbrance of any kind or character, and that Supplier has full legal title to all Goods and Services, which are hereby conveyed to Buyer. If any encumbrance is lodged, filed or registered against Goods and/or Services or any other property of Buyer or Customer at any time, then the Supplier must, not later than five (5) days after any such encumbrance has been filed or notice has been received, at its sole cost and expense, promptly vacate or discharge the encumbrance or otherwise cause the same to be removed and discharged.

11.5 Supplier warrants that all subcontractors, suppliers, vendors, mechanics and/or materialmen which have performed or provided goods or services in connection with the Goods and Services have been paid in full. Supplier shall defend and indemnify Buyer and Customers from any and all liens, claims, or causes of action asserted by all of such persons or entities. In the event that any subcontractor, supplier, vendor or mechanics or materialmen’s lien asserts a claim of any kind against Buyer, Buyer shall have the right to offset and withhold the amount of such claim, together with a reasonable allowance for Buyer’s attorneys’ fees and other expenses, until such claim has been released.

11.6 Buyer shall have the right to assign all or any part of the warranties provided herein to any Customer. In the absence of express assignment, all of the warranties contained herein shall inure to the benefit of, and be enforceable by, any Customer which acquires any of the Goods or Services, or any product which contains, incorporates or uses any of the Goods and Services.

11.7 If the Supplier is not the manufacturer, and the Goods and deliverables are covered by a separate manufacturer’s warranty, the Supplier shall transfer and assign such manufacturer’s warranty to the Buyer and/or the Buyer’s Customer. If for any reason the manufacturer’s warranty cannot be fully transferred to the Buyer and/or the Buyer’s Customer, the Supplier shall assist and cooperate with the Buyer and Customer to the fullest extent to enforce such manufacturer’s warranty for the benefit of the Buyer and Customer.

12. HAZARDOUS CONDITIONS AND RECALLS

In addition to Supplier’s warranty obligations herein, if at any time Supplier learns of any issue relating to a potential safety hazard or unsafe condition involving Goods, or is advised by any governmental agency having jurisdiction that such a potential safety hazard or unsafe condition may exist, Supplier shall immediately advise Buyer by the most expeditious means of communication under the circumstances, such as by telephone, email, fax, or overnight mail, with confirmation of delivery. If a hazardous or unsafe condition should exist (or be determined to exist by any governmental agency having jurisdiction) in any Goods,

causing significant risk of serious personal injury or property damage under normal use and service, Supplier and Buyer shall cooperate in correcting the hazardous or unsafe condition; provided, however, Supplier shall remain responsible for any liability, claim, cost or expense that Buyer or its Customer(s) may incur in connection with the correction.

13. INDEMNITY AND INSURANCE; DAMAGE WAIVER

13.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, SUPPLIER SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS BUYER, INCLUDING ITS PARENT COMPANY POWELL INDUSTRIES, INC. AND THE RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES OF EACH, AS WELL AS BUYER'S CUSTOMERS AND ANY USERS OF PRODUCTS PURCHASED FROM BUYER WHICH INCORPORATE, CONTAIN, USE OR ARE BASED IN ANY WAY UPON ANY OF THE GOODS AND SERVICES, FROM ANY AND ALL CLAIMS, LIABILITIES, LOSSES, DAMAGES OR EXPENSES (INCLUDING ATTORNEYS' FEES AND LITIGATION COSTS RESULTING FROM); (I) ANY INJURIES OR DEATHS OF PERSONS (INCLUDING BUYER'S EMPLOYEES) OR DAMAGE TO PROPERTY (INCLUDING BUYER'S PROPERTY); (II) THE ACTUAL OR ALLEGED INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF ANY PERSON, INCLUDING PATENT OR PATENT APPLICATIONS, TRADEMARKS, COPYRIGHTS, OR OTHER RIGHTS, OR MISAPPROPRIATION OF TRADE SECRETS OR ANY BREACH OF SUPPLIER'S OBLIGATIONS OR VIOLATION UNDER ARTICLES 9 AND 10 HEREIN; AND/OR (III) SUPPLIER'S BREACH OR VIOLATION OF APPLICABLE LAWS, REGULATIONS OR A DATA SECURITY BREACH, IN EACH CASE, RESULTING FROM, ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, DELIVERY, TRANSPORT, OR USE OF THE GOODS OR SERVICES, OR ANY DEFECT THEREIN, AND IRRESPECTIVE OF WHETHER THE BASIS OF THE CLAIM IS BROUGHT UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY LEGAL OR EQUITABLE THEORY OR COMBINATION THEREOF.

13.2 IF SUPPLIER PERFORMS ANY WORK OR PROVIDES ANY OF THE SERVICES (INCLUDING REPAIRS OR REPLACEMENTS UNDER ANY APPLICABLE WARRANTY) OR MAKE ANY DELIVERIES ON THE PREMISES OF BUYER OR OTHER PARTIES TO WHOM BUYER IS SIMILARLY OBLIGATED, SUPPLIER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS BUYER AND ALL SUCH OTHER PARTIES, FROM ANY AND ALL CLAIMS, LIABILITIES, LOSSES, DAMAGES OR EXPENSES RESULTING FROM INJURIES TO OR DEATHS OF PERSONS (INCLUDING BUYER'S, CUSTOMER'S AND SUPPLIER'S EMPLOYEES) OR DAMAGES TO PROPERTY (INCLUDING BUYER'S AND BUYER'S CUSTOMERS' PROPERTY) ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF SUCH WORK, SERVICE OR DELIVERIES.

13.3 SUPPLIER WARRANTS AND REPRESENTS THAT NO FEDERAL, PROVINCIAL, TERRITORIAL OR MUNICIPAL STATUTE, REGULATION OR ORDINANCE HAS BEEN, OR WILL BE VIOLATED IN THE MANUFACTURE, SALE, DELIVERY, INSTALLATION OR OPERATION OF ANY OF THE GOODS OR SERVICES AND WILL DEFEND AND INDEMNIFY BUYER FROM ANY AND ALL LOSS, EXPENSE OR LIABILITY RESULTING FROM ANY SUCH VIOLATION.

13.4 BUYER SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR ANY OTHER FORM OF DAMAGES, EXCEPT DIRECT DAMAGES, AND WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, OR COMBINATION THEREOF.

13.5 Supplier agrees to pay any and all statutory remittances for tax and employment insurance benefits, pensions and annuities, whether now or hereafter imposed pursuant to any law or regulation or hereafter enacted or adopted by any governmental authority and which are measured by wages, salaries or other remuneration paid to persons employed by Supplier. Supplier shall maintain, or cause to be maintained at Supplier's expense, the following insurance coverages until all obligations of the Supplier pursuant to the Purchase Order have been fully discharged or as otherwise stated; (i) Workers'

Compensation Insurance providing statutory benefits covering such employees, (ii) Comprehensive General Liability Insurance, including products and completed operations coverage and contractual liability coverage covering the indemnification obligations contained herein, with a combined single limit of at least \$2,000,000 per occurrence, (iii) Motor Vehicle Liability Insurance for owned, non-owned and hired automobiles for bodily injury and property damage, with a combined single limit of at least \$2,000,000 per occurrence, and (iv) should the Services include engineering, architectural, design or other professional services, Professional Liability insurance (Errors and Omissions) with a single limit of not less than \$2,000,000 per claim. Supplier agrees to perform work according to any safety rules and regulations provided by Buyer if work is to be performed on Buyer's premises. All such insurance policies; (a) shall (excepting workers compensation and Professional Liability Insurance) include a waiver of any rights of subrogation of the insurer as against Buyer and be endorsed to specify that such Supplier policies are primary and non-contributory with any insurance or self-insurance maintained by Buyer and contain an additional insured endorsement naming Buyer as a loss payee.

14. COMPLIANCE WITH LAW

14.1 Supplier shall not, in performing any work required under this Purchase Order, discriminate against any person because of race, color, religion, sex, national origin, physical or mental handicap, age, or covered veterans. Supplier will comply, and cause each of its subcontractors, vendors or suppliers, to comply with, all statutes, ordinances or regulations which prohibit discrimination or harassment of any person based upon race, color, religion, sex, national origin, physical or mental handicap, age, covered veteran's status, or any other status protected by applicable law.

14.2 Supplier agrees to comply with the provisions of any and all occupational safety and health laws, and all standards and regulations issued there under, and warrants to Buyer and to Buyer's customer and any user of Goods purchased from Buyer that all Goods or Services conform to those standards and regulations.

14.3 Supplier further certifies that any material provided hereunder to Buyer does not contain Persistent Bioaccumulative Toxic (PBT) or Perfluoroalkyl and polyfluoroalkyl (PFAS) substances, or if it does have the potential to contain PBT or PFAS contaminants, then Supplier certifies that all requirements of the PBT regulations under 40CFR 751, TSCA section 6(h) have been met. Upon request, Supplier shall provide Buyer with documentation that the material is in compliance with TSCA regulations. Supplier shall inform Buyer in advance of any TSCA restrictions known to it governing the use and disposal of substances supplied hereunder, including any proposed or final Significant New Use Rule (SNUR) restrictions. Upon written request of Buyer, and subject to entry into a mutually acceptable confidentiality agreement if requested by Supplier, Supplier shall promptly provide Buyer with the complete listing of regulated substances or products supplied hereunder and any other information or certifications as deemed necessary for Buyer to assess regulatory compliance and satisfy any applicable reporting requirements both inside and outside of the United States.

14.4 Supplier agrees to abide by applicable import/export Laws or other restrictions or conditions respecting the import, export, re- export or transfer of information, goods, equipment or services that are now in effect or are hereafter imposed by the Canadian government, the U.S. government or other applicable jurisdictions including, but not limited to, (a) restrictions and import/export licensing requirements governing the import, export, re- export or transfer to other persons, entities or countries; (b) restrictions and import/export licensing requirements governing the import, export, or other transfer of foreign-developed information, goods, or equipment that are incorporated in the information, goods, or equipment subject to this Purchase Order; (c) any applicable restrictions on the import, export, re-export, acquisition, or transfer of the information, goods, equipment or services to or from countries (which include, but are not limited to, Cuba, Iran, North Korea, Russia, Sudan and Syria), entities and persons that are subject to sanctions, embargoes or other prohibitions imposed by Canada or other jurisdictions; and (d) applicable restrictions on the import, export or transfer of the

direct product of technical data imposed by Canada or other jurisdictions. Supplier agrees that it is responsible for the strict compliance by each member of Supplier Company with import/export Laws. It is Supplier's duty to verify in advance if any import, export or transfer is prohibited, restricted or subject to a permit or licensing requirement under the import/export Laws of the U.S. or other jurisdictions. Supplier shall be solely responsible for obtaining any necessary import/export permit, license or authorization required in connection with respect to its Deliverables for imports, exports or transfers made by Supplier or members of the Supplier Company. Supplier shall immediately notify Buyer if an import/export permit, license or other authorization is required in connection with this Purchase Order.

14.5 Supplier shall, and shall cause each of its subcontractors, vendors or suppliers, and the agents and employees of each of them, to comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78 DD-1 & 2, as amended)(FCPA), the Corruption of Foreign Public Officials Act (Canada) (CFPO), and the Bribery Act 2010 (United Kingdom) (BA). Supplier shall not take any action that could result in Buyer or any of its Customers becoming subject to any action, penalty or loss of benefits under the FCPA, CFPO or BA. Supplier shall not make, direct or indirect payments of a corrupt nature, to employees, agents or public employees of a government, or candidates or active members of political parties in order to obtain or maintain business.

14.6 Supplier shall, and shall cause each of its subcontractors, vendors or suppliers, and the agents and employees of each of them, to comply with all requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act, including, without limitation, § 1502 and Buyer's policy statements on conflict minerals, which may be accessed on the company website at <http://www.powellind.com> and is incorporated herein by reference for all purposes.

14.7 Human Rights Obligations: Supplier shall and shall cause its subcontractors to conduct its and their business in respect of individuals and their human rights. Supplier shall and shall cause its subcontractors to comply with all Laws and applicable principles pertaining to human rights, including the United Nations (UN) Universal Declaration of Human Rights, and the UN Guiding Principles on Business and Human Rights, the International Labor Organization's Fundamental Conventions, the US Victims of Trafficking and Violence Protection Act, US Forced Labor prohibitions, the California Transparency in Supply Chains Act, the UK Modern Slavery Act, the Canadian Human Rights Act and Alberta Human Rights Act.

14.8 Supplier shall not engage and shall ensure that its subcontractors shall not engage in slavery, indentured servitude, forced labor or human trafficking of any kind. People doing work for Supplier, including its subcontractors, either directly or indirectly, must do so voluntarily and without coercion.

14.9 Supplier shall not and shall ensure that its subcontractors shall not impose unreasonable restrictions on workers' rights to leave work or terminate employment.

14.10 Supplier shall not and shall ensure that its subcontractors shall not engage in harsh or inhumane treatment against any individuals and must comply with all Laws and the treatment of workers.

14.11 Supplier shall and shall ensure that its subcontractors shall not engage in child labor and unfair wage payments or failure to pay wages earned. Supplier shall ensure that its subcontractors and suppliers comply with these provisions.

14.12 Supplier shall provide substance information in conformance with the Proposition 65 Act and identify the presence of any of the chemicals known to the State of California to cause cancer, birth defects or reproductive harm. The list is maintained by the California Office of Environmental Health Hazard Assessment (OEHHA), and can be found online at www.oehha.ca.gov/proposition-65-list.

14.13 **SUPPLIER AGREES TO DEFEND AND INDEMNIFY BUYER FROM ALL CLAIMS FOR INJURY TO OR DEATHS OF PERSONS OR DAMAGE TO PROPERTY, OR FOR OTHER DAMAGES OF ANY KIND, INCLUDING, FINES, PENALTIES AND ATTORNEYS' FEES, SUSTAINED BY OR ASSESSED AGAINST THEM ON ACCOUNT OF SUPPLIER'S FAILURE TO COMPLY WITH THESE ARTICLE 13 COMPLIANCE OBLIGATIONS.**

15. ASSIGNMENT

Neither this Purchase Order nor any of Supplier's rights or obligations herein are assignable to any other person or entity without Buyer's prior written consent. Any actual or attempted assignment or delegation by the Supplier shall be *void ab initio*. Buyer shall have the right to assign all or any part of this Purchase Order to any other person or entity without Supplier's consent, including, without limitation, to any affiliate or to a financing source of Buyer.

16. SEVERABILITY

If any provision (or portion thereof) of these Terms and Conditions, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable by an arbitrator or court of competent jurisdiction, the remainder of these Terms and Conditions, and the application of such provision (or remaining portion of the provision) to persons or circumstances other than those as to which it is specifically held invalid or unenforceable, shall not be affected thereby, and each and every remaining provision (or portion of the provision) of these Terms and Conditions shall be construed consistent with the intent of the Parties hereto as closely as possible, and the Contract, as reformed, shall be valid and binding to the fullest extent permitted by law.

17. INSOLVENCY AND BANKRUPTCY

If Supplier becomes insolvent, or files proceedings under any provision of the Bankruptcy and Insolvency Act (Canada), or makes an arrangement with its creditors, or has a receiver or administrator appointed for any of its assets, or commences dissolution, Buyer may without prejudice to any of its other rights, terminate the Purchase Order by notice to Supplier which shall be treated as a termination for cause as a result of Supplier's default.

18. ENTIRE AGREEMENT

The Purchase Order, together with the Terms and Conditions and all of the Contract Documents, contain the entire agreement between Supplier and Buyer and supersede all prior communications, representations and agreements, whether oral or written, including inquiries, quotations or other communications (unless expressly incorporated into the Purchase Order), all of which shall be deemed to be merged into the Purchase Order.

19. APPLICABLE LAW

This Purchase Order and the Contract Documents shall be construed and interpreted in accordance with the laws of the Province of Alberta.

20. ARBITRATION

Any controversy, claim or dispute arising under the Purchase Order, the Terms or Conditions or any of the Contract Documents, including disputes as to the interpretation, applicability or enforcement of the Purchase Order, the Terms and Conditions or any of the Contract Documents shall be resolved by binding arbitration to be conducted in Edmonton, Alberta pursuant to the provisions of the Arbitration Act of the Province of Alberta.

21. NOTICES

Any notice permitted or required to be given hereunder shall be in writing and shall be effective upon the earlier of the date it is actually received, or the next business day after being sent via facsimile transmission addressed to the respective parties at the addresses shown on the Purchase Order.

22. AUDIT

22.1 Supplier shall maintain, and shall cause its agents and subcontractors (if any) providing Goods or Services hereunder to maintain, books, records, and documents, to ensure accurate billing of any charges incurred as well as the quality of the Goods or Services provided under this Agreement. All such records

shall be subject at reasonable times and upon reasonable prior notice, to examination, inspection, copying, or audit by personnel authorized by Buyer, Customer and/or any third party auditor designated by them.

22.2 Such records shall be retained for seven (7) years after the expiration or termination of this Agreement, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be maintained until all audit tasks are completed and finally resolved. Records involving matters in litigation related to this Agreement shall be kept for one (1) year following the termination of litigation, including all appeals.

23. NON-WAIVER

No delay, failure or refusal on the part of any Party to exercise or enforce any right under this Agreement shall impair such right or be construed as a waiver of such right or any obligation of another Party, nor shall any single or partial exercise of any right hereunder preclude other or future exercise of any right. The failure of a Party to give notice to the other Party of a breach of this Agreement shall not constitute a waiver thereof. Any waiver of any obligation or right hereunder shall not constitute a waiver of any other obligation or right, whether then existing or arising in the future. To be effective, a waiver of any obligation or right must be in writing and signed by the Party waiving such obligation or right.