

PowerCo Holding US, INC.

NON-PRODUCTION STANDARD TERMS AND CONDITIONS

Effective October 07, 2025

POWERCO HOLDING US, INC.

NON-PRODUCTION STANDARD TERMS AND CONDITIONS

Unless otherwise specifically detailed in writing and signed by the parties hereto (sometimes referred to herein as a “Party” and collectively as “Parties”), the following Non-Production Standard Terms & Conditions (“Terms”) apply to all contracts, agreements, Purchase Orders, SOWs, Change Orders, and business relations of any kind (collectively referenced herein as an “Order”), between POWERCO HOLDING US, INC. (“POWERCO HOLDING US, INC.”) and its suppliers (each, a “Supplier”). These Terms apply to Orders for Goods, Services and/or Goods and Services, as the case may be.

1 Definitions; General Obligations

- 1.1 Defined Terms. In addition to the defined terms as otherwise contained in this document and associated Orders, the following terms shall have the meanings herein specified unless the context otherwise requires. Defined terms herein shall include in the singular number, the plural, and in the plural, the singular.
 - 1.1.1 “Affiliate” shall mean, with respect to any Person, any other Person directly or indirectly controlling (including without limitation all employees, directors and officers of such Person), controlled or under direct or indirect common control with such Person. A Person shall be deemed to control an entity if such Person possesses, directly or indirectly, the power to direct or cause direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise. The foregoing notwithstanding, a Subcontractor of Supplier is considered an Affiliate and shall be subject to all of the obligations of Supplier stated herein.
 - 1.1.2 “Business Day” shall mean any day on which POWERCO HOLDING US, INC. is open for business. Unless otherwise stated, any references to a number of “days” shall mean calendar days.

- 1.1.3 “Business Owner” shall mean that person who a Party may designate in an SOW or Purchase Order who has responsibility for the project as defined in the SOW or other Order documents and who has authority to direct the project, agree to and sign Change Orders, and is the main point of contact for the Party. In the absence of a specific designation, the person who signs the SOW or Purchase Order shall be the Business Owner.
- 1.1.4 “Facility” shall mean any building or facility to the extent owned, leased or otherwise controlled by a Party where any obligation under the Order is to be performed.
- 1.1.5 “Goods” shall mean collectively or individually, the products, software, equipment, supplies and any other goods which POWERCO HOLDING US, INC. may purchase from Supplier under the Purchase Order.
- 1.1.6 “Person” shall mean any individual or joint venture, partnership, corporation or other business or legal entity.
- 1.1.7 “Order” shall mean all contracts, agreements, Purchase Orders, SOWs, formal Change Orders, and business relations of any kind between POWERCO HOLDING US, INC. and Supplier.
- 1.1.8 “Personnel” shall mean the officers, directors, agents and employees of any Party.
- 1.1.8 “Purchase Order(s)” shall mean any written, electronic or other order(s) issued by POWERCO HOLDING US, INC. to Supplier under the Order for the specific purchase of Goods or Services, including those orders issued by POWERCO HOLDING US, INC. to Supplier through POWERCO HOLDING US, INC.’s Order Hub.
- 1.1.9 “Services” shall mean, collectively or individually, the services and tasks which Supplier will provide or render for or on behalf of POWERCO HOLDING US, INC. under the Order.
- 1.1.10 “SOW(s)” shall mean a statement of work entered into between the Parties and which shall set forth in detail the unique purchase requirements pursuant to which the Goods and/or Services shall be produced and rendered including without limitation the specifications, technical requirements, project milestones, delivery dates and charges for the Goods and Services. SOWs may also contain service level agreements and other terms and conditions.
- 1.1.11 “Third Person” shall mean a Person, including its employees, contractors or agents that is not a Party to the Order.

2 Offer; Acceptance; Exclusive Terms

- 2.1 General. Each Order incorporates by reference and is governed by these Terms. Each Purchase Order or revision thereof issued by POWERCO HOLDING US, INC. is an offer to the Supplier identified on the Purchase Order for the purchase of Goods and/or Services. When accepted, a Purchase Order supersedes all prior agreements, purchase orders, quotations, proposals and other communications regarding the Goods and/or Services covered by the Purchase Order, except that a prior agreement signed by an authorized representative of POWERCO HOLDING US, INC. (e.g. the Order, an RFQ or Non-Disclosure Agreement) will continue to apply. Supplier accepts a Purchase Order, including these Terms, and forms a contract by doing any of the following: (a) commencing any work under the Purchase Order; (b) accepting the Purchase Order in writing; or (c) any other conduct that recognizes the existence of a contract with respect to the subject matter of the Purchase Order. The Purchase Order does not constitute an acceptance of any offer or proposal made by Supplier. Any reference in the Purchase Order to any offer or proposal made by Supplier is solely to incorporate the description or specifications of Goods and/or Services in the prior proposal, but only to the extent that the description or specifications do not conflict with the description and specifications in the Purchase Order. Any additional or different terms proposed by Supplier, whether in Supplier’s quotation, acknowledgement, invoice or otherwise, shall be deemed a material alteration of these Terms, and are hereby objected to and rejected by POWERCO HOLDING US, INC.; provided, that any such proposal or attempted variance shall not operate as a rejection of the Purchase Order if Supplier

accepts POWERCO HOLDING US, INC.'s offer by commencement of work, shipment of the Goods, acceptance of the Order in writing or by other means acceptable to POWERCO HOLDING US, INC., in which case the Purchase Order shall be deemed accepted by Supplier without any additional or different terms or variations. Each Purchase Order is limited to and conditional upon Supplier's acceptance of these Terms exclusively. An Order and these Terms, and any attachments thereto, shall be considered the complete agreement between POWERCO HOLDING US, INC. and Supplier with respect to the subject matter hereof and shall supersede any prior or contemporaneous agreements relating thereto. Any modification of these Terms must be expressly stated in the Order. Each Order can be modified only in accordance with Section 3. In the event of a conflict, a signed agreement shall take precedence over a Purchase Order, and a Purchase Order shall take precedence over these Terms. References herein to "including" shall be deemed to mean "including, but not limited to," or "including, without limitation" or such similar meaning.

- 2.2 Cooperation. Each Party will reasonably cooperate with the other Party in connection with its obligations under the Order. Such cooperation will include (i) cooperating with and coordinating work, schedules and other performance obligations with other suppliers and/or Subcontractors who are also performing work at the Facility and (ii) informing the other Party of all management decisions, conditions or other occurrences that the Party reasonably expects to have a material effect on the obligations required to be performed by that Party under the Order, including without limitation providing written notice to POWERCO HOLDING US, INC. of any condition or occurrence which Supplier reasonably believes may affect Supplier's, POWERCO HOLDING US, INC.'s or any Subcontractor's schedules.
- 2.3 Conduct; Safety; Removal. While at a POWERCO HOLDING US, INC. Facility, Supplier shall be responsible for its Personnel, Subcontractors and Affiliates. Supplier and its Personnel, Subcontractors and Affiliates will conduct themselves (including wearing attire acceptable to POWERCO HOLDING US, INC.) in a business-like and professional manner and will comply with POWERCO HOLDING US, INC.'s reasonable requests, rules and regulations, including with respect to personal conduct, safety, including the wearing of protective clothing or gear if applicable, parking, building access, identification badges, and security rules and regulations, of which Supplier has been notified in writing or of which Supplier should reasonably be aware. POWERCO HOLDING US, INC. shall further have the right to require, at Supplier's expense, health, safety, or other testing to prove, in writing, the fitness of Supplier's employees to enter into POWERCO HOLDING US, INC.'s premises. POWERCO HOLDING US, INC. may, upon giving written notice to Supplier, require Supplier to reassign, replace or remove any individual or Subcontractor performing services under the Order when POWERCO HOLDING US, INC. determines that the performance of such individual or Subcontractor is such that it has an adverse impact on POWERCO HOLDING US, INC.. Supplier will, on receipt of such written notice, begin diligent efforts to address POWERCO HOLDING US, INC.'s concerns. If Supplier has not, in POWERCO HOLDING US, INC.'s reasonable determination, addressed POWERCO HOLDING US, INC.'s concerns within five (5) working days from date of written notice by resolving the issue or providing an action plan with respect thereto, Supplier will reassign, replace or remove such individual or Subcontractor and complete such reassignment, replacement or removal as soon as practicable at no cost to POWERCO HOLDING US, INC.. In addition, POWERCO HOLDING US, INC. may, on giving written notice to Supplier, and at no cost to POWERCO HOLDING US, INC., require the immediate removal of any individual or Subcontractor who has violated any safety or security rules or regulations, or any other policies or procedures, of which POWERCO HOLDING US, INC. has made Supplier aware, or violated any laws or regulations in the course of performing services under the Order or breached any of the provisions of the Order and/or these Terms. Supplier represents and warrants that it is aware of and will abide by POWERCO HOLDING US, INC. drug and alcohol testing requirements and that it is in full compliance therewith. Supplier agrees to maintain the highest standards of moral, legal and ethical conduct and to safeguard and promote the reputation of POWERCO HOLDING US, INC. and its products. Supplier shall refrain, and shall ensure that its Personnel and Affiliates, and Subcontractors, refrain, from making any negative comments about POWERCO HOLDING US, INC. throughout the term of the relevant Order and for a period of no less than twelve months after the expiration of the Order. Supplier shall take all appropriate measures to verify that all Personnel performing services at a POWERCO HOLDING US, INC. Facility are legally eligible to work in the United States and California and/or any other state in which such Personnel perform services. Supplier shall complete, execute, and maintain all forms and documentation,

including a federal Form I-9, for all Personnel performing services at a POWERCO HOLDING US, INC. Facility. Supplier shall not knowingly or intentionally direct or allow any of its Personnel to enter a POWERCO HOLDING US, INC. Facility or to perform any services of any nature who is not legally eligible to work in the United States and California and /or any other state in which such Personnel may enter a POWERCO HOLDING US, INC. Facility or perform services. Upon POWERCO HOLDING US, INC.'s request and subject to applicable law, Supplier shall make available to POWERCO HOLDING US, INC. the employment, qualification and training records and documentation of its Personnel, including Form I-9 and other records and documentation regarding the eligibility of Supplier's Personnel to work in the United States and California and/or any other state in which such Personnel perform services. If Supplier provides Services at a POWERCO HOLDING US, INC. Facility, Supplier will examine the Facility to determine whether the Facility is safe for the Services and will advise POWERCO HOLDING US, INC. promptly of any situation it deems to be unsafe. Supplier shall be solely responsible for, and POWERCO HOLDING US, INC. shall have no liability for, any loss, expense, damage or claim arising out of, or in connection with, the performance of Services at a POWERCO HOLDING US, INC. Facility.

2.4 Subcontractors.

2.4.1 Subject to the terms of this Section 2.4, Supplier may engage Subcontractors to produce the Goods and perform the Services associated with the Order or other obligations to be performed by Supplier under the Order, provided that Supplier will remain fully responsible for the work, activities and other obligations of its Subcontractors and will ensure that its Subcontractors perform the Work as authorized by and pursuant to their respective engagements with Supplier. Prior to engaging a Subcontractor, Supplier will notify POWERCO HOLDING US, INC. in writing and provide any information that POWERCO HOLDING US, INC. may reasonably request regarding such Subcontractor. If POWERCO HOLDING US, INC. does not object within thirty (30) days after receiving written notice and all requested information, Supplier may engage such Subcontractor. Supplier represents and warrants that any Subcontractor shall be subject to all of Supplier's obligations, responsibilities and warranties under the relevant Order, and that Supplier will ensure the compliance of all Subcontractors with the terms of the Order for which the Subcontractor has been engaged (including these Terms and ensuring that all Subcontractors comply with the insurance requirements and Personnel documentation and other work eligibility and qualification provisions set forth in these Terms). POWERCO HOLDING US, INC. reserves the right to check at any time the qualifications and performance of any Personnel of Supplier or its Subcontractors. For purposes of these Terms, "Subcontractor" refers to an independent Third Person of any tier engaged, either directly by POWERCO HOLDING US, INC. or indirectly through another independent Third Person, to produce Goods and/or perform Services associated with the Order or other obligations to be performed by Supplier under the Order.

2.4.2 Subcontractor Reviews. At POWERCO HOLDING US, INC.'s request, the Parties will review the performance of any Subcontractor. Matters discussed at such reviews may include without limitation any work performed by a Subcontractor. If POWERCO HOLDING US, INC. determines that the performance of the Subcontractor, including any of its Personnel, does not conform to the Order or is otherwise unacceptable, POWERCO HOLDING US, INC. may, without liability, remove or terminate or require the removal or termination of such Subcontractor or Personnel. If POWERCO HOLDING US, INC. removes or terminates, or requires the removal or termination, of any Subcontractor or Personnel, Supplier shall ensure that any replacement Subcontractor or Personnel will perform the Services of the removed Subcontractor or Personnel at the same price.

2.5 Travel Expenses. All travel undertaken by Supplier, its Personnel, or Subcontractors pursuant to the Order shall be at Supplier's expense.

3 Change Orders

3.1 General. All changes to the Order, including to an SOW or a Purchase Order, ("Change(s)") shall be made through the change order process described in this Article 3. The Parties agree that (i) no Change which is reasonably expected to affect the function or performance of any Goods or Services will be implemented without prior consultation between the Parties; and (ii) all approved Changes will be formalized in a change

order (“Change Order”) executed by both Parties.

- 3.2 Requests for Changes. All requests for Changes by a Party will be communicated in writing by that Party’s Business Owner to the other Party’s Business Owner. Any request for Changes will include a detailed description of the Change requested, the projected schedule and timing for the Change and the priority of the Change.
- 3.3 Change Documentation. Within five (5) Business Days after receiving a request from POWERCO HOLDING US, INC. for a Change, Supplier shall prepare and provide to POWERCO HOLDING US, INC. a document summarizing the effect, if any, of the proposed Change on (i) the scope of the Goods or Services; (ii) Supplier’s and POWERCO HOLDING US, INC.’s obligations under the Order; and (iii) the budget or price for the Change. In addition, Supplier shall inform POWERCO HOLDING US, INC. in such document regarding any other business impact Supplier believes to be relevant to POWERCO HOLDING US, INC.’s evaluation of the proposed Change. Within ten (10) Business Days after receiving such information, POWERCO HOLDING US, INC. will confirm or withdraw the request for the Change. In the event that Supplier initiates the request for Change, it shall submit to POWERCO HOLDING US, INC. along with its request the information set forth in clauses 3.3 (i), (ii) and (iii) above. POWERCO HOLDING US, INC. shall have ten (10) Business Days after receipt of the request for Change to approve or reject the request.
- 3.4 Change Process. All Changes shall be requested using the following process:
- a) Party will specify the Change.
 - b) Supplier will provide the applicable quotes, providing one (1) quote if the Change amount is less than \$10,000, three (3) quotes if the Change amount is between \$10,001 and \$70,000, and a Request for Proposal/Quote if the Change amount is greater than \$70,000.
 - c) Supplier submits Change Documentation to POWERCO HOLDING US, INC. for review.
 - d) POWERCO HOLDING US, INC. either approves or rejects the quote and provides meeting minutes and issues a Change Order or revised Purchase Order.
 - e) Upon approval by POWERCO HOLDING US, INC., Supplier accepts the Changes and executes and accepts the Change Order or revised Purchase Order upon approval

4 Goods and Services

- 4.1 Goods and Services. POWERCO HOLDING US, INC. may, during the Term of the Order, purchase the Goods and Services as described in the applicable Order. Except as may be otherwise expressly negotiated and stated in the Order, POWERCO HOLDING US, INC. shall have no obligation to purchase all of its requirements for the Goods and Services from Supplier and in the absence of an express declaration to that effect, the Order shall not be deemed to be a requirements contract. Supplier shall produce the Goods and perform the Services as ordered by POWERCO HOLDING US, INC. in accordance with the Order and shall, unless otherwise provided in the Order, provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution of Supplier’s obligations under the Order, whether temporary or permanent and whether or not incorporated or to be incorporated into the Goods and Services. Supplier shall follow all written instructions from POWERCO HOLDING US, INC.. POWERCO HOLDING US, INC. shall not be responsible for verbal instructions given by any other Persons or for Supplier’s interpretations of the Terms and/or other Purchase Order, SOW or other part of the Order. Supplier shall keep the Goods and Services, as well as POWERCO HOLDING US, INC.’s Facility and any other property leased or owned by POWERCO HOLDING US, INC., free and clear of any and all liens, encumbrances and claims arising out of or relating to the Order.
- 4.2 Ordering. POWERCO HOLDING US, INC. may, during the Term of the Order, order additional or incremental Goods and Services from Supplier under the Order by issuing to Supplier a signed Change Order or Purchase Order. Each Change Order or Purchase Order shall specify the description, quantity, purchase prices and fees, special requirements, if any, delivery dates, shipping terms and any additional terms as mutually agreed upon between the Parties for the Goods and/or Services ordered by POWERCO HOLDING US, INC. from Supplier (collectively, the “Order Terms”). Supplier shall not fabricate or ship

any Goods or provide any Services except to the extent authorized in POWERCO HOLDING US, INC.'s written Orders.

- 4.3 Shipping, Risk of Loss and Title. Except as otherwise stated in the Order, POWERCO HOLDING US, INC. requires that Supplier ship Goods DDP POWERCO HOLDING US, INC.'s designated Facility. Shipping, including carriage, shall be arranged by Supplier. Except as otherwise stated in the Order, Incoterms 2010 shall apply to all shipments. Notwithstanding anything to the contrary, unless specified in the Order, title and risk of loss or damage to the Goods shall pass to POWERCO HOLDING US, INC. upon delivery, without prejudice to POWERCO HOLDING US, INC.'s rights to reject or return Goods pursuant to the Terms.
- 4.4 Packing. POWERCO HOLDING US, INC. will hold Supplier responsible for, and Supplier represents and warrants that Goods shall be properly, safely and carefully packed, prepared, secured and stowed for shipment, including loading, unloading, handling, storing, carrying, keeping, caring for, protecting and transporting the Goods, from the point of shipment until they reach and are accepted by POWERCO HOLDING US, INC. at its final destination, whether on or off vehicles, in temporary storage, or not in Supplier's physical care, custody and control. Supplier represents and warrants that it will select transportation methods and carriers using reasonable care. Drivers are to be legally licensed and professionally trained in the handling, loading, unloading and transport of Goods. Any additional freight, cartage or other cost incurred, directly or indirectly, resulting from Supplier's failure to observe the conditions set forth in these Terms shall be charged to Supplier's account. Without any limitation or waiver of any rights, POWERCO HOLDING US, INC. may require Supplier, at Supplier's expense, to ship Goods express, by air or by any special method if Supplier fails to meet the delivery requirements of the Order. Damaged Goods will be returned to Supplier at Supplier's expense.
- 4.5 Acceptance of Goods and Services. Except as otherwise stated in the Order, acceptance by POWERCO HOLDING US, INC. of Goods or Services shall occur when the Goods have been satisfactorily delivered, inspected, and installed, or the Services have been fully performed, and the Goods and Services meet all applicable performance criteria set forth in the Order. POWERCO HOLDING US, INC. shall inspect and notify Supplier in writing within a reasonable time from the date the Goods and Services have been received, whether POWERCO HOLDING US, INC. has rejected the Goods or Services (the "Acceptance Period"). POWERCO HOLDING US, INC.'s payment of any invoice shall not be deemed to be acceptance of the Goods or Services, and its acceptance of the Goods or Services shall not be construed as evidence that the Goods or Services do, in fact, conform in all respects with the Goods and Services requirements set forth in the Order, or as a waiver of Supplier's warranty obligations as contained herein.
- 4.6 Customs Related Matters. Credits or benefits resulting from the Order, including trade credits, export credits, or the refund of duties (including duty drawback), taxes, or fees, belong to POWERCO HOLDING US, INC.. Supplier, as identified in the Purchase Order, shall provide all information and certificates (including FTA certificates and USMCA Certificates of Origin) necessary to permit POWERCO HOLDING US, INC. to receive these benefits or credits. Supplier agrees to notify POWERCO HOLDING US, INC. of any Goods or Services which are subject to United States or any other country's import or export laws and to fulfill any customs, FTA, or USMCA related obligations, origin marking, or labeling requirements, and local content origin requirements. Supplier shall notify POWERCO HOLDING US, INC. in writing of any Goods subject to U.S. export laws and regulations, including any changes to local, state or FTA or USMCA content, which in each case are subject to POWERCO HOLDING US, INC. approval. Export licenses or authorizations necessary for the export of Goods are Supplier's responsibility unless otherwise stated in the Order, in which case Supplier shall provide the information necessary to enable POWERCO HOLDING US, INC. to obtain the licenses or authorizations. Supplier shall promptly notify POWERCO HOLDING US, INC. in writing of any material or components used by Supplier in filling the Order that Supplier purchases in a country other than the country in which the Goods are delivered. Supplier shall furnish any documentation and information necessary to establish the country of origin or to comply with the applicable country's rules of origin requirements. Supplier shall promptly advise POWERCO HOLDING US, INC. of any material or components imported into the country of origin and any duty included in the Goods' purchase price. If Goods are manufactured in a country other than the

country in which Goods are delivered, Supplier shall mark Goods "Made in [country of origin]." Supplier shall provide to POWERCO HOLDING US, INC. and the appropriate governmental agency the documentation necessary to determine the admissibility and the effect of entry of Goods into the country in which Goods are delivered. This shall include supporting documentation required by Customs and Border Protection and any other governmental agencies, including, without limitation, the United States Department of Transportation (DOT), Environmental Protection Agency (EPA), and Food and Drug Administration (FDA). Supplier warrants that any information that is supplied to POWERCO HOLDING US, INC. about the import or export of Goods is true and that all sales covered by the Order will be made at not less than fair value under the anti-dumping laws of the countries to which the Goods are exported. To the extent any Goods covered by the Order are to be imported into the United States of America, Supplier shall comply with all applicable recommendations or requirements of the Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Supplier shall certify in writing its compliance with the C-TPAT initiative and shall provide any supporting documentation requested by POWERCO HOLDING US, INC. and/or the Bureau of Customs and Border Protection.

- 4.7 Time and Quantity of the Essence. Time and quantity are of the essence to POWERCO HOLDING US, INC.. Time and quantity provisions of Order(s) generated in connection with these Terms shall be strictly observed. Supplier shall promptly notify POWERCO HOLDING US, INC. in writing of any and all events which could affect the obligation of Supplier to make deliveries of Goods and/or Services at specified times or in specified quantities and of corrective measures that Supplier shall implement to comply with Supplier's obligations under the Order. In such circumstances, POWERCO HOLDING US, INC. may exercise any and all rights it may have pursuant to the Order. Alternatively, POWERCO HOLDING US, INC. may, at its option, require Supplier to do all things necessary at no cost to POWERCO HOLDING US, INC. (including without limitation working overtime or extra shifts, or shipping by premium means, all at Supplier's expense) to deliver or perform as committed. The fact that such notice is given, however, shall not affect or diminish any obligation of Supplier. POWERCO HOLDING US, INC. is not obligated to accept early deliveries, late deliveries, partial deliveries or excess deliveries. Any provision to the contrary herein notwithstanding, and in addition to any other remedies it may have under these Terms or by law, POWERCO HOLDING US, INC. shall be permitted to charge for each day a delivery is late liquidated damages in the amount of 0.2% of the total purchase price for the Goods or Services; provided, however, that such liquidated damages shall not exceed, in the aggregate, 5% of the total purchase price for the late Goods or Services. If the liquidated damages applicable to Supplier reach the aggregate limit of five percent (5%) of the total purchase price for the late Goods or Services, any further delay by Supplier shall be a material breach of the Agreement and POWERCO HOLDING US, INC. may pursue any of its rights or remedies at law or in equity, including without limitation terminating the Order, or any part thereof, for cause. Supplier acknowledges that these liquidated damages are reasonable, are not POWERCO HOLDING US, INC.'s exclusive remedy in the event of delay and that POWERCO HOLDING US, INC. may pursue any and all rights and remedies it may have at law or in equity, including without limitation recovering liquidated damages in accordance with this Section, in the event of Supplier's delay. POWERCO HOLDING US, INC., without cost or liability to Supplier, may reschedule delivery of the Goods or Services by giving timely written notice to Supplier.
- 4.8 Design and Manufacturing Procedures; Other Services. Supplier shall comply with the design and manufacturing requirements and procedures of POWERCO HOLDING US, INC., including without limitation procedures relating to testing, safety, delivery, installation, scheduling, production and training. During the period Supplier is designing and/or manufacturing the Goods, and upon reasonable request, POWERCO HOLDING US, INC. shall have the right of access to any of Supplier's plants as may be necessary to allow POWERCO HOLDING US, INC. to review Supplier's progress and verify that the Goods are being designed and/or manufactured according to specifications and the production schedule and are otherwise in compliance with POWERCO HOLDING US, INC.'s design and manufacturing requirements and procedures and all other applicable laws and regulations. Supplier shall provide POWERCO HOLDING US, INC. with appropriate technical assistance for the Goods, including without limitation redesign services if design modifications are required by applicable law, on-site support and spare parts. Supplier's technical assistance obligations under this Section 4.8 shall survive the termination

or expiration of the Order.

- 4.9 Sustainable Development Standards. In addition to complying with POWERCO HOLDING US, INC.'s other requirements, Supplier shall comply with POWERCO HOLDING US, INC.'s and its Affiliates' Code of Conduct for Business Partners. The Code of Conduct defines the expectations of POWERCO HOLDING US, INC. and its Affiliates regarding environmental compliance, sustainable development, and conduct by business partners, including with respect to the added value of their products. The full text of the requirements can be found on vwgroupsupply.com under Cooperation - > Sustainability. When Supplier submits an offer and/or accepts an Order, Supplier confirms its awareness of, and agreement to comply with, the sustainable development requirements.

5 Charges and Payment

- 5.1 Charges. POWERCO HOLDING US, INC. shall pay Supplier the purchase prices and/or service fees (collectively, the "Charges") for the Goods and Services set forth in the applicable SOWs and Purchase Orders. In addition to any right of setoff or recoupment provided by law, POWERCO HOLDING US, INC. may set off and recoup against its accounts payable to Supplier any amounts for which Supplier or Supplier's Affiliates is liable to POWERCO HOLDING US, INC. under any order or agreement with Supplier or Supplier's Affiliates. POWERCO HOLDING US, INC. shall not be required to pay for the Goods or Services at prices higher than those specified in the Order. The Charges include all charges, including transportation (DDP), storage, drayage, insurance, boxing, packing, crating, carting, customs, duties imposed before passage of title, testing, installation, training and technical assistance, and all applicable taxes except sales, use and other such taxes imposed upon the sale or transfer of goods or services for which POWERCO HOLDING US, INC. is responsible under these Terms and properly invoiced by Supplier and POWERCO HOLDING US, INC. will not accept any extras or additional charges unless specified in the Order or otherwise agreed by POWERCO HOLDING US, INC. in writing. Supplier assumes the risk of events or causes affecting prices including without limitation foreign exchange rates, increases in raw material costs, inflation, increases in labor and other production and supply costs. Supplier represents that the Charges shall not exceed the prices charged to any other customer of Supplier for goods which are the same or substantially similar to the Goods, taking into account the quantities and terms of the Order. Moreover, Supplier agrees to refund any excess amounts charged by Supplier to POWERCO HOLDING US, INC. in violation of this Section 5.1.
- 5.2 Taxes. POWERCO HOLDING US, INC. shall not be liable for any Federal, state, local or foreign taxes unless separately stated in the Order and billed as a separate line item. Unless POWERCO HOLDING US, INC. has furnished Supplier with an applicable exemption certificate, POWERCO HOLDING US, INC. shall pay Supplier any applicable sales, excise or use taxes or other taxes imposed by any federal, state, local or foreign government which directly arise from the sale of the Goods or the rendering of the Services and which Supplier is responsible by law to collect from POWERCO HOLDING US, INC.. POWERCO HOLDING US, INC. shall be responsible for Value Added Taxes ("VAT") with respect to the Goods and Services so long as Seller identified the VAT as a separate line item in its quotation, and presented the VAT as a separate line item in its invoice. All other taxes for which POWERCO HOLDING US, INC. is responsible under the Order shall be submitted in a separate invoice.

POWERCO HOLDING US, INC. shall not be responsible for any taxes based on Supplier's income or its business operations including without limitation employment taxes, income taxes or license taxes. Supplier agrees to provide POWERCO HOLDING US, INC. with documents that shall be required to obtain any applicable exemption, credit, rebate, remission, refund, reduction or other relief from taxes or foreign tax credit. POWERCO HOLDING US, INC. is authorized to deduct or withhold from each payment to Supplier all taxes which POWERCO HOLDING US, INC. is required by law to deduct or withhold and to pay the amount withheld or deducted to the relevant tax authorities.

Supplier shall comply in a timely manner with all requirements imposed on Supplier by all applicable taxing statutes, including requirements in respect of registration, payment, collection, and remittance of taxes and provision to the taxing authorities of such deposits, guarantees or other forms of security as may be required by law or the administration thereof, and shall upon request provide POWERCO HOLDING

US, INC. with written proof of such compliance. Supplier shall indemnify, defend, and hold harmless POWERCO HOLDING US, INC. for any amounts assessed against POWERCO HOLDING US, INC. arising from Supplier's failure to so comply.

5.3 Invoices and Payment. Supplier shall issue individual invoices for each Service delivered and each shipment of Goods delivered. Invoices must contain the Purchase Order number, if any, and description of Goods and/or Services. Except as otherwise stated in the Order, POWERCO HOLDING US, INC. shall pay the Charges set forth in non-disputed invoices based on a Net 60 day payment term. In the event of any delay in receiving an invoice, or any error or omissions in any invoice, POWERCO HOLDING US, INC. may withhold payment without losing its rights to applicable cash discounts. Except as otherwise stated in the Order, all payments will be in U.S. Dollars. Supplier agrees to accept payment by electronic funds transfer or by check mailed on or before the due date unless otherwise expressly agreed by POWERCO HOLDING US, INC..

5.5 Audits by POWERCO HOLDING US, INC.

5.5.1 Audits. At POWERCO HOLDING US, INC.'s request, Supplier will allow POWERCO HOLDING US, INC. or its designated representatives to audit its or its Subcontractors' books, records, and other information relating to the Order to the extent necessary to verify Supplier's compliance with completed and current Orders, including the accuracy of any Charges. Supplier will cooperate with and comply with all reasonable requests from POWERCO HOLDING US, INC. or its designated representatives in connection with such audit. Supplier shall maintain its books, records and other information relating to the Order for at least seven (7) years after the Termination Date.

5.5.2 Upon completion of any such audit, the Parties will review the audit report together and work in good faith to agree upon (1) any adjustment of Charges to POWERCO HOLDING US, INC. (including any reimbursement of any overpayment by POWERCO HOLDING US, INC. or reimbursement to Supplier for any underpayment by POWERCO HOLDING US, INC.); and (2) any appropriate adjustments to Supplier's billing practices. If any such audit discloses overpayments that in the aggregate equal one percent (1%) or more of the amounts that were actually due as shown by the audit, then Supplier will reimburse POWERCO HOLDING US, INC. for the costs of the audit.

5.5.3 Operational Audits. POWERCO HOLDING US, INC. may monitor Supplier's performance of its duties under the Order at any time during normal business hours, upon prior written or verbal notice to Supplier.

5.6 Payment and Performance Bonds

Upon request by POWERCO HOLDING US, INC., prior to the commencement of Services, and in any event before commencement of Services at POWERCO HOLDING US, INC.'s Facilities, Supplier shall, with respect to the installation and other Services performed at POWERCO HOLDING US, INC.'s Facility, furnish and pay the cost of a Performance Bond and a Labor and Material Payment Bond (collectively, "Payment Bond") in the amount of the value of the Services performed at POWERCO HOLDING US, INC.'s Facility as security for the performance of such Services under the Order and the payment of all other obligations arising under the Order with respect to such Services. Such Payment Bond shall be for an amount satisfactory to POWERCO HOLDING US, INC., shall be on a form approved by POWERCO HOLDING US, INC., and shall be written by a surety company approved by POWERCO HOLDING US, INC. and licensed to do business in the State of California. Further, no later than seven (7) Business Days prior to the providing by Supplier of any Services at POWERCO HOLDING US, INC.'s Facility, Supplier shall deliver to POWERCO HOLDING US, INC. the Payment Bond. POWERCO HOLDING US, INC. shall have the right to file of record the Payment Bond in the appropriate local office(s) in accordance with the appropriate project jurisdiction's lien laws, and Supplier agrees that no Services shall commence prior to receiving written notice from POWERCO HOLDING US, INC. that such filing has occurred.

6 Confidentiality

- 6.1 Confidential Information. This confidentiality clause shall replace any prior NDA entered into between Seller, Buyer, or their affiliates related to these Supplies. “Confidential Information” shall mean any information typically regarded as confidential and proprietary that has been or may hereafter be disclosed or discovered in any form, whether in writing, orally, electronically, visually or otherwise, by either Party or its Personnel, Affiliates, consultants or advisors (each a “Representative”) (collectively, a “Disclosing Party”) to the other Party or its Representatives (collectively, a “Receiving Party”) including all information relating generally or specifically to a Party’s business, including without limitation patents, copyrights, inventions, designs, discoveries, improvements, formulae, product data, specifications and processes, trade secrets, customer lists and contacts, personal data and information, information on customer quantity and technical requirements, product pricing information, geographic and sales data, technical or commercial information, and financial information, information related to mergers or acquisitions, software, software documentation, and information concerning business plans or business strategy that is supplied to or obtained by the other Party pursuant to or as a result of the Order and that is not generally known in the trade or industry. Each Party may use Confidential Information of the other Party only in connection with the performance of duties under the Order. The Parties agree, however, that the name of the Seller and Buyer’s total annual spend with the Seller are not confidential. Neither Party shall copy Confidential Information or disclose Confidential Information of the other Party to persons who do not need Confidential Information in order to perform its duties under the Order. Confidential Information will be returned to the Disclosing Party seeking to protect such information upon request of the Disclosing Party. Confidential Information does not include information that is generally known or available to the public prior to the date of the Order, information that becomes generally known or available to the public by publication or otherwise not due to any unauthorized act or omission of the Party not claiming the information to be confidential, or information that is not treated as confidential by the Party claiming the information to be confidential. Because the breach of either Party’s confidentiality obligations may cause the other Party to suffer irreparable harm in an amount not easily ascertained, any such breach, whether threatened or actual, will give the non-breaching Party the right to obtain equitable relief to enjoin or restrain the disclosure or use of such Confidential Information. The provisions of this Section 6.1 will survive the termination of the relevant Order for the longer of five (5) years from the disclosure of the Confidential Information or three (3) years after the date of termination or expiration of the related Order; provided that each Party agrees to maintain indefinitely the confidentiality of any trade secret of the other Party which is disclosed or discovered during the term of the Order, provided that the trade secret has been specifically identified in writing as a trade secret. Notwithstanding anything to the contrary in these Terms, any confidentiality or non-disclosure agreement between the Parties that predates these Terms will remain in effect except as expressly set forth in these Terms, and to the extent of a conflict between the express terms of such an agreement and this Section, the terms of that agreement will control. The Parties also agree that either Party may share Confidential Information with its advisors, consultants, and others on a need to know and under similar confidentiality requirements.
- 6.2 Restrictions on Use of Confidential Information.
- 6.2.1 The Receiving Party will use at least the same degree of care, but no less than a reasonable degree of care, to avoid unauthorized disclosure or use of the Disclosing Party’s Confidential Information as it employs with respect to its own Confidential Information, including taking reasonable measures to record who has access to Confidential Information.
- 6.2.2 The Receiving Party may disclose Confidential Information only to its own Personnel and to its Representatives, Affiliates and Subcontractors who reasonably need to know it in order to meet the contractual obligations as contemplated by the Order. The Receiving Party will be responsible to the Disclosing Party for any violation by its Personnel, Representatives, Affiliates or Subcontractors. Supplier shall take reasonable steps to record who has access to Confidential Information, including by keeping written access logs. The Receiving Party shall, upon request, provide to the Disclosing Party the identities and names of the individuals to whom Confidential Information has been disclosed.
- 6.2.3 The Receiving Party may not print or copy, in whole or in part, any documents or other media containing the Disclosing Party’s Confidential Information, other than copies for its Personnel, Representatives, Affiliates, or Subcontractors who are working on the matter, without the prior consent of the Disclosing

- Party. The Receiving Party shall keep a written record of who has received such prints or copies and, upon request, provide to the Disclosing Party the identities and names of such individuals.
- 6.2.4 The Receiving Party may not use the Disclosing Party's Confidential Information for competing with the Disclosing Party, for its own benefit, or for any purpose not in furtherance of the Order.
- 6.2.5 As promptly as practicable (and in any event within ten (10) days) after the earlier of the completion of the Receiving Party's obligations under, or the termination of, the Order, the Receiving Party will return or, with the consent of the Disclosing Party, destroy all of the Disclosing Party's Confidential Information, except for business records required by law to be retained by the Receiving Party, and upon request of the Disclosing Party shall deliver an affidavit signed by an officer of the Receiving Party attesting to the return and/or destruction of the Confidential Information.
- 6.2.6 If the Receiving Party is requested, as part of an administrative, judicial or other legal proceeding, to disclose any of the Disclosing Party's Confidential Information, the Receiving Party will, to the extent permitted by applicable law, notify the Disclosing Party in writing of such request as promptly as practicable (and in any event within five (5) Business Days after receiving the request) and cooperate with the Disclosing Party, at the Disclosing Party's expense, in seeking a protective order or similar confidential treatment for such Confidential Information.
- 6.3 To the extent that Supplier shares Personal Information, as defined in POWERCO HOLDING US, INC.'s Data Privacy and Security Addendum ("DPSA"), which is identified as Appendix S and may be found on www.vwgroupsupply.com, with POWERCO HOLDING US, INC., Supplier will do so in compliance with applicable law, including providing appropriate notice (including notice regarding the sharing of Personal Information with third parties) and obtaining consent if required; or, if Supplier is not the first party collector of such Personal Information, ensuring that suppliers of such data have provided appropriate notices and obtained any required consents to share such data. Supplier agrees to make available, upon request, information to demonstrate compliance, including a copy of the compliant notices or consents.
- 6.4 In addition to the confidentiality provisions of this Section, to the extent Supplier has access to or processes Personal Information, the DPSA is incorporated by reference and forms part of these Terms and the Order.
- 6.5 If the DPSA is not incorporated into these Terms and Supplier receives or has access to POWERCO HOLDING US, INC. Data, as defined in POWERCO HOLDING US, INC.'s Technical and Organizational Security Measures Appendix ("Cybersecurity Appendix"), which is identified as Appendix T and may be found on www.vwgroupsupply.com, the

Cybersecurity Appendix is incorporated by reference and forms part of these Terms and the Order. The Cybersecurity Appendix shall supplement, and not in any way limit or restrict, the confidentiality, data security, and privacy terms set forth in this Section.

- 6.6 Prior to receiving any data from POWERCO HOLDING US, INC., Supplier shall propose to POWERCO HOLDING US, INC. in writing specific retention periods for all data provided or made available to Supplier by, or on behalf of, POWERCO HOLDING US, INC.. Supplier shall work with POWERCO HOLDING US, INC. until POWERCO HOLDING US, INC. approves of the retention periods. Supplier shall permanently delete and/or return, as requested by POWERCO HOLDING US, INC., data in accordance with the approved retention periods in the manner requested by POWERCO HOLDING US, INC. unless instructed otherwise in writing by POWERCO HOLDING US, INC. or the Parties have otherwise agreed to a shorter retention period (in which case the shorter retention period shall control). Upon POWERCO HOLDING US, INC.'s request, Supplier shall promptly certify in writing to POWERCO HOLDING US, INC. that it has destroyed such data and provide logs documenting such destruction.

7 Warranties and Certain Covenants

7.1 By Supplier.

- 7.1.1 Goods Warranty. Supplier warrants to POWERCO HOLDING US, INC. that (a) the Goods will be produced and delivered in strict accordance with the terms and requirements set forth in the Order, be free of defects in design, materials and workmanship, be merchantable and be fit and sufficient for the particular purpose intended by POWERCO HOLDING US, INC. and shall conform in all material respects to all applicable laws and regulations in force at the time the Goods are produced, (b) the documentation provided by Supplier shall be correct, free from defects and in sufficient detail to permit POWERCO HOLDING US, INC. to properly and safely operate and maintain the Goods, (c) the Goods shall perform in accordance with the performance requirements set forth in the Order, (d) that Supplier has the expertise and resources necessary to produce and deliver the Goods in accordance with the requirements and specifications (including timeframes) set forth in the Order, including without limitation the SOW, and (e) that Supplier is familiar with the condition of the Facility and other conditions under which the Goods will be used, including without limitation the prevailing weather conditions, and Supplier agrees that such conditions will not affect the use of the Goods in accordance with all the requirements and specifications (including timeframes) set forth in the Order (the "Goods Warranty"). Promptly after written notice of any defect or failure to comply is provided by POWERCO HOLDING US, INC., Supplier shall, at POWERCO HOLDING US, INC.'s option, either (i) replace, (ii) repair, or (iii) refund the purchase price for any Goods that do not conform to the Goods Warranty. POWERCO HOLDING US, INC.'s acceptance of Goods, including those which have been repaired, replaced or modified, shall be evidenced by a written certification thereof. Goods repaired, replaced or modified shall be subject to all provisions of the Order to the same extent as items initially delivered, with any applicable warranty period beginning upon the completion of such repair, replacement or modification, which completion date shall be the date certified in writing by POWERCO HOLDING US, INC. which is at least six (6) weeks after the repaired, replaced or modified items have functioned properly without further defect. Any provision to the contrary in the Order notwithstanding, if Supplier fails to timely deliver the Goods, including without limitation the failure to promptly replace, repair, or modify a nonconforming Good, then POWERCO HOLDING US, INC. shall have the right, in addition to the right of termination under Section 12, to purchase replacement goods from a party other than Supplier and charge Supplier for any price differential for these cover purchases from the purchase price, as well as recover any and all damages to which POWERCO HOLDING US, INC. is entitled under law and equity, including without limitation breach of contract damages as well as any and all attorneys' fees and costs incurred as a result of Supplier's breach of its obligations.
- 7.1.2 Services Warranty. Supplier represents and warrants to POWERCO HOLDING US, INC. (a) that all Services will be performed in a prompt, professional and workmanlike manner in accordance with the requirements and specifications (including timeframes) set forth in the Order, including without limitation the SOW, and otherwise in accordance with industry standards and will conform in all material aspects with all applicable laws and regulations in force at the time the Services are performed, (b) that Supplier has the expertise and resources necessary to undertake and complete the Services in accordance with the

requirements and specifications (including timeframes) set forth in the Order, including without limitation the SOW, and (c) that Supplier is familiar with the condition of the Facility and other conditions under which the Services will be performed, including without limitation the prevailing weather conditions, and Supplier agrees that such conditions will not affect the performance of all Services in accordance with all the requirements and specifications (including timeframes) set forth in the Order (collectively, “Services Warranty”). Promptly after written notice of any defect or failure to comply is provided by POWERCO HOLDING US, INC., Supplier shall, at POWERCO HOLDING US, INC.’s option, either (i) re-perform any Services, or (ii) refund the service fees for any Services that do not conform to the Services Warranty. POWERCO HOLDING US, INC.’s acceptance of Services, including those which have been repaired, replaced or modified, shall be evidenced by a written certification thereof. Services re-performed shall be subject to all provisions of the Order to the same extent as Services initially performed, with any applicable warranty period beginning upon the completion of such re-performance, which shall be the date certified in writing by POWERCO HOLDING US, INC. which is at least six (6) weeks after the re-performed or corrected Services have continued without further defect. Any provision to the contrary in the Order notwithstanding, if Supplier fails to timely re-perform a nonconforming Service, then POWERCO HOLDING US, INC. shall have the right, in addition to the right of termination under Section 12, to purchase replacement services from a party other than Supplier and charge Supplier for any price differential for these cover purchases from the purchase price, as well as recover any and all damages to which POWERCO HOLDING US, INC. is entitled under law and equity, including without limitation breach of contract damages as well as any and all attorneys’ fees and costs incurred as a result of Supplier’s breach of its obligations.

7.1.3 Warranty Period. Except as otherwise stated in the Order, the warranty period is the longer of (i) three (3) years from written acceptance by POWERCO HOLDING US, INC., (ii) the warranty period specified by Supplier and Supplier’s documentation relating to the Goods or Services, as the case may be, and (iii) the warranty period provided by applicable law.

7.2 Additional Warranties.

7.2.1 Supplier represents and warrants to POWERCO HOLDING US, INC.: (a) Supplier, and any Goods and Services supplied by Supplier, and its Personnel, Subcontractors and Affiliates, are in compliance and will comply with all applicable laws, including rules, regulations, orders, conventions, ordinances, and standards, including without limitation (i) relating to the manufacture, labeling, transport, import, export, licensing, permitting, approval or certification of the Goods and Services, and (ii) relating to environmental matters, hiring, wages, hours and conditions of employment, immigration, worker documentation and permits, international prohibitions on slave, child, prisoner or any other form of forced, involuntary or illegal labor, Subcontractor selection, discrimination, occupational health or safety, motor vehicle safety and data and information security. An Order incorporates by reference all clauses required by these laws. (b) All materials used by Supplier in the Goods or in their manufacture will satisfy current governmental and safety constraints on restricted, toxic, or hazardous materials as well as any and all environmental, electrical, and electromagnetic considerations that apply to the country of manufacture, sale, or destination. Supplier shall furnish POWERCO HOLDING US, INC., no later than the date the Goods are delivered, with a Safety Data Sheet (“SDS”) for any Goods which are covered by the Occupational Safety and Health Act Hazard Communications Standard as contained in 29 C.F.R. § 1910.1200, and shall promptly provide updated SDS documentation to reflect any changes in the compilation of any materials supplied. (c) Supplier shall furnish the weight and dimensions of each part in grams and millimeters, respectively, as well as in U.S. dimensions. (d) Certification that the Supplier and its supplies comply with or 15 CFR Part 791 known as the Information and Communications Technology and Services Act (“ICTS”). (e) Supplier and its Personnel, Affiliates and Subcontractors will abide by the highest ethical standards. Seller agrees to comply with all national, state, provincial, and local laws and regulations pertaining to product content and warning labels, including without limitation the U.S. Toxic Substances Control Act, or European Union Directive 2000/53/EC. Neither Supplier nor any of its Subcontractors will utilize slave, child, prisoner or any other form of forced, involuntary or illegal labor, or engage in abusive worker treatment or corrupt business practices in violation of any laws, including, but not limited to, the Uyghur Forced Labor Protection Act (“UFLPA”), in the sale of Goods or provision of Services under these Terms. Additionally, Seller shall, upon request of POWERCO HOLDING US, INC., provide a full and complete list of its sub-

suppliers' names, addresses, and confirmation down to Supplier's raw materials that it fully complies with the UFLPA. If after six (6) months the Supplier has failed to comply it will pay to Buyer liquidated damages in the amount of 10% of all invoices previously due or that may come due until such documents are provided; (f) Supplier and its Subcontractors are licensed, permitted and in compliance with all California and other laws with respect to licensing and permitting, including without limitation laws regarding the licensing and permitting of contractors and Subcontractors. (g) At POWERCO HOLDING US, INC.'s request, Supplier shall certify Supplier's, its Personnel's, Subcontractors' and Affiliates' compliance with the foregoing.

- 7.2.2 OFAC Compliance. Seller warrants that it is currently in compliance with, and shall at all times during the term of this Agreement remain in compliance with, the regulations of the Office of Foreign Assets Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto. In addition, Seller shall confirm that its suppliers, sub-suppliers, and sub-sub suppliers are also in compliance with these requirements and shall remain so during the term of this Agreement, so that no component or sub-component of an item purchased by Buyer from Seller is in violation of OFAC regulations.
- 7.2.3 Supplier represents and warrants to POWERCO HOLDING US, INC. that it is an equal opportunity employer and that it is in compliance with all applicable federal, state and local labor and employment laws, regulations and orders, including without limitation those laws, regulations and orders that address the payment of wages, harassment, discrimination in employment, and immigration. .
- 7.2.4 Supplier represents and warrants to POWERCO HOLDING US, INC. that (i) it has good and marketable title to the Goods, (ii) the Goods will be free from any liens, claims, encumbrances, and interests of third parties, including without limitation Supplier's vendors and Subcontractors and the intellectual property interests of any third party, and that all of Supplier's vendors and Subcontractors will have been paid to such extent as may be required by law or by Supplier's subcontracts or suborders and (iii) it has all requisite power and authority to transfer title to the Goods to POWERCO HOLDING US, INC.. If at any time the acts or omissions of Supplier or its Subcontractors result in a claim or indebtedness against POWERCO HOLDING US, INC. or against Supplier or its Subcontractors, or lien rights against the Goods or any part thereof or against any Facility or other property of POWERCO HOLDING US, INC., Supplier shall notify POWERCO HOLDING US, INC. in writing of such claim, indebtedness or lien rights and immediately pay such claim or indebtedness or cause such lien rights to be released and discharged by giving bond or otherwise at Supplier's expense, and otherwise indemnify, defend and hold harmless POWERCO HOLDING US, INC. from such claim, indebtedness or lien rights.
- 7.2.5 Supplier represents and warrants that (i) it has all requisite power and authority to execute, deliver, and perform its obligations under the Order, (ii) the execution, delivery, and performance of the Order have been duly authorized and (iii) no approval, authorization, or consent of any governmental or regulatory authority is required to be obtained in order for it to enter into and perform its obligations under the Order.
- 7.2.6 Supplier represents and warrants to POWERCO HOLDING US, INC. that, in performing its obligations under the Order, (i) it will not employ or subcontract with any person who is a "Specially Designated National" ("SDN") as defined from time to time in regulations issued by the Office of Foreign Asset Control of the United States Department of the Treasury and (ii) Supplier is not an SDN.
- 7.3 Warranties Under Law. The foregoing warranties are in addition to any provided to POWERCO HOLDING US, INC. by applicable law.
- 7.4 Warranty Costs. All costs incurred in connection with performing any warranty obligation, including all travel expenses and daily allowances, shall be the obligation of Supplier and Supplier shall fulfill Supplier's warranty obligations without additional fees or charges of any kind to POWERCO HOLDING US, INC., unless otherwise specified in the Order or otherwise agreed by POWERCO HOLDING US, INC. in writing.

8 Indemnification

- 8.1 Indemnification by Supplier. All indemnification provisions in the Order are supplemental to and part of the indemnification provisions in this Article 8. To the fullest extent permitted by law, Supplier shall, at its expense, indemnify, defend and hold harmless POWERCO HOLDING US, INC. and its Affiliates, agents, and invitees and their respective Personnel, successors and assigns (each a “POWERCO HOLDING US, INC. Indemnitee”), in full against all loss, liability, damages, costs and expenses, including attorney fees, settlements, professional fees, expert fees, and judgments arising from any claims, actions, or lawsuits (collectively, “Losses”) claimed by any Third Person in any claim, demand, suit or proceeding in connection with any of the following:
- 8.1.1 Any misrepresentation by Supplier or the breach by Supplier of its obligations or warranties to POWERCO HOLDING US, INC. under these Terms or the Order;
 - 8.1.2 The death or bodily or personal injury of, or other legally enforceable damage incurred by, any agent, employee, customer, business invitee, or business visitor or other person caused by the breach of contract, breach of warranty, negligence, misconduct or any other acts or omissions of Supplier or its Personnel or Subcontractors;
 - 8.1.3 The damage, loss or destruction of any real or personal property caused by the breach of contract, breach of warranty, negligence, misconduct or any other acts or omissions of Supplier or its Personnel or Subcontractors;
 - 8.1.4 Liens, encumbrances and payment and other claims relating in any manner to the Goods and Services which are asserted by Supplier, any Subcontractor, or anyone directly or indirectly engaged by any of them or for anyone for whose acts they may be responsible; POWERCO HOLDING US, INC. may withhold payment to satisfy such liens, encumbrances or payment and other claims and, upon the written request of POWERCO HOLDING US, INC., Supplier shall bond off or otherwise satisfy any such liens, encumbrances and payment and other claims; and
 - 8.1.5 Claims by Supplier or its Personnel, Affiliates or Subcontractors relating to any benefits normally associated with employment at POWERCO HOLDING US, INC., including insurance, pension, health, lease cars, compensation, tax withholdings, Medicare, and social security, and any claims relating to Supplier's failure to comply with, including without limitation any claims made by or relating to:
 - (a) Supplier's Personnel, Affiliates or Subcontractors;
 - (b) the Wage and Hour Act;
 - (c) the Fair Labor Standards Act;
 - (d) the Retaliatory Employment Discrimination Act;
 - (e) the Employment Retirement Income Security Act;
 - (f) the Consolidated Omnibus Budget Reconciliation Act;
 - (g) the Age Discrimination in Employment Act;
 - (h) Title VII of the Civil Rights Act of 1964;
 - (i) Section 1981 of the Civil Rights Act as amended;
 - (j) the Americans With Disabilities Act;
 - (k) the Family and Medical Leave Act;
 - (l) the Immigration Control and Reform Act of 1986 and/or
 - (m) any other applicable federal, state or local statutes, laws, ordinances, rules, regulations or orders pertaining to immigration, discrimination, wrongful discharge (actual or constructive), breach of express or implied contract, worker's compensation, compensation (including payroll, withholding, employment taxation, social security, unemployment compensation, minimum wage, overtime, unpaid wages, vacation and/or sick leave pay), intentional and/or negligent infliction of emotional distress, defamation, and/or any other cause of action.
- 8.2 Indemnification by Supplier with Respect to Intellectual Property.

- 8.2.1 Supplier shall, at its expense, indemnify, defend, and hold harmless the POWERCO HOLDING US, INC. Indemnitees from any Third-Person claims made against POWERCO HOLDING US, INC. or any of its Affiliates and their respective Personnel in full against all loss, liability, damages, costs and expenses, including attorney fees, settlements, professional fees, expert fees, and judgments arising from any claims, actions, or lawsuits alleging that any Goods or Services infringe a Third Person's copyright, patent, trademark, trade secret or other intellectual property or proprietary right ("Intellectual Property Claim"). POWERCO HOLDING US, INC. shall notify Supplier promptly in writing and furnish Supplier with such information and assistance as Supplier may reasonably request to evaluate the Intellectual Property Claim. Supplier shall then, at its own expense and option, either (i) settle the Intellectual Property Claim, or (ii) procure for POWERCO HOLDING US, INC. and its Affiliates, as applicable, the right to use the alleged infringing Good or Service, or (iii) replace or modify the alleged infringing Good or Service in order to avoid the Intellectual Property Claim, or (iv) remove the alleged infringing Good or Service and refund the prices (including transportation costs) paid by POWERCO HOLDING US, INC. and its Affiliates, as applicable, to Supplier less a reasonable amount directly proportionate to POWERCO HOLDING US, INC.'s, and its Affiliates', as applicable, actual usage of the infringing Good or Service, or (v) litigate the Intellectual Property Claim; provided, however, prior to Supplier taking any of the foregoing responses, the Parties shall meet to discuss the action or actions which Supplier proposes to take in response to the Intellectual Property Claim. If the Parties are unable to agree upon the action or actions to take in response to the Intellectual Property Claim, POWERCO HOLDING US, INC. may, at its sole option and without liability, elect to terminate the Order, or any part thereof, as to any alleged infringing Good or Service upon five (5) days prior written notice to Supplier. Regardless of Supplier's response to the Intellectual Property Claim or POWERCO HOLDING US, INC.'s election to terminate the Order, or any part thereof, as to any alleged infringing Good or Service, Supplier shall remain obligated to defend the Intellectual Property Claim and to pay any final judgments awarded against Supplier and/or POWERCO HOLDING US, INC. and its Affiliates, as applicable, based upon the Intellectual Property Claim.
- 8.2.2 Supplier shall have no obligation to indemnify POWERCO HOLDING US, INC. against any Third-Person claims made against POWERCO HOLDING US, INC. or any of its Personnel or Affiliates if it is finally determined that liability is the sole result of (i) a modification made to a Good by POWERCO HOLDING US, INC. which has not been approved by Supplier or (ii) the use by POWERCO HOLDING US, INC. of a Good in combination with goods that are not provided to POWERCO HOLDING US, INC. by Supplier and which use is not contemplated by the Order and infringes the Third-Person's copyright, patent or trade secret.
- 8.3 Indemnification Procedures. The following procedures will apply to all claims for indemnification under this Article:
- 8.3.1 Promptly after receipt by POWERCO HOLDING US, INC. of written notice of the commencement or threatened commencement of any civil, criminal, administrative or investigative action or proceeding involving a claim for which a POWERCO HOLDING US, INC. Indemnitee may be entitled to indemnification, written notice of such claim will be conveyed to Supplier. However, the failure to so notify Supplier will not relieve that Party of its obligations under the Order.
- 8.3.2 The Indemnitees will have the right to determine who controls the defense in any negotiations or legal proceedings pertaining to a claim covered by this Article (notwithstanding that Supplier shall bear the cost of the defense for the Indemnitees). If the Indemnitees elect to control their own defense and permit Supplier to control its own defense, both Parties may select their own legal counsel and experts; however, to the maximum extent possible permitted by the circumstances and ethical considerations, counsel for Supplier and counsel for the Indemnitees will work together to avoid duplication of effort or expense, in attorney fees or otherwise. In addition, Supplier and the Indemnitees will make good faith efforts to coordinate their activities so as to take consistent positions in the course of negotiations or legal proceedings.
- 8.3.3 If Supplier controls the defense, Supplier shall timely provide to POWERCO HOLDING US, INC. all information with respect to such defense, compromise or settlement as POWERCO HOLDING US, INC. may request. Supplier shall not assume any position or take any action in connection with such defense, compromise or settlement that would impose an obligation of any kind (other than the obligations under

Article 8 hereof) or restrict the actions of POWERCO HOLDING US, INC., it being understood that Supplier would be acting solely on its own behalf, for its own account and at its own risk.

- 8.3.4 Supplier shall obtain the prior approval, which approval will not be unreasonably delayed or withheld, from POWERCO HOLDING US, INC. in respect of any proposed settlement of any claims before entering into any settlement of such claims or ceasing to defend such claims.
- 8.3.5 If Supplier does not participate in the defense of a claim covered by this Section, the Indemnitees will have the right to defend the claim in such manner as they may deem appropriate, at Supplier's cost and expense. Supplier will promptly reimburse the Indemnitees for all such costs and expenses, demand for which may be made periodically.
- 8.3.6 Notwithstanding anything to the contrary in the Order, no limitations on damages or remedies set forth in the Order shall apply to an Indemnifying Party's obligations to indemnify, defend and hold the Indemnitees harmless against Losses. Indemnity obligations shall survive the termination, cancellation or non-renewal of the Order. Supplier's obligation to indemnify, defend and hold harmless shall apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise except to the extent of (i) claims that arise solely as a result of the negligence or willful misconduct of POWERCO HOLDING US, INC. and (ii) Third-Person claims made against POWERCO HOLDING US, INC. or any of its Affiliates as set forth in Section 8.2.2 above. The indemnification obligations set forth in these Terms, including this Article, are independent of and in addition to any insurance and warranty obligations of Supplier.

9 Liability Limitation; Force Majeure

- 9.1 Excluded Damages. POWERCO HOLDING US, INC. shall not be liable for, and Supplier hereby waives any right to, any special, indirect, incidental, consequential or punitive damages, including lost profits, lost fees, lost business, loss of use, costs associated with business interruptions or like damages (the "Excluded Damages"), whether based upon contract, tort or any other legal theory, resulting from or in any way connected with the performance by either Party of their respective covenants and agreements under the Order. POWERCO HOLDING US, INC. shall not be liable to Supplier for the Excluded Damages, whether foreseeable or not, and even if POWERCO HOLDING US, INC. has been advised or otherwise has knowledge of the possibility of the Excluded Damages.
- 9.2 Force Majeure. Except for Services relating to business continuity and/or recovery of data, any delay or failure of either Party to perform its obligations will be excused if and to the extent the Party is unable to perform due to an event or occurrence beyond its reasonable control and without its fault or negligence, such as: acts of God; restrictions, prohibitions, priorities, or allocations imposed or actions taken by a governmental authority (whether valid or invalid); embargoes; floods; earthquakes; explosions; natural disasters; riots; wars; sabotage; inability to obtain power; or court injunction or order. Supplier shall use its best efforts to reduce the effects of such events on Supplier's performance of its obligations. Supplier's inability to perform as a result of, or delays caused by, Supplier's insolvency or lack of financial resources is deemed to be within Supplier's control. The change in cost or availability of materials or components based on market conditions, supplier actions, or contract disputes, or any labor strike or other labor disruption applicable to a Party or any of its subcontractors or suppliers, shall not excuse such Party's performance (under theories of force majeure, commercial impracticability or otherwise), and each Party assumes these risks. As soon as possible (but no more than one full business day) after the occurrence, the affected Party will provide written notice describing such delay, including any corrective measures which the affected Party will implement to cure such delay, and assuring the other Party of the anticipated duration of the delay and the time that the delay will be cured. During a delay or failure to perform by Supplier, POWERCO HOLDING US, INC. may at its option: (a) purchase Goods from other sources and reduce its schedules to Supplier by such quantities, without liability to Supplier; (b) require Supplier to deliver to POWERCO HOLDING US, INC. in accordance with the terms of the Order all finished goods, work in process and parts and materials produced or acquired for work under the Order; and/or (c) have Supplier provide Goods from other sources in quantities and at a time requested by POWERCO HOLDING US, INC. and at the price set forth in the Order. In addition, Supplier at its expense will take all necessary

actions to ensure the supply of Goods to POWERCO HOLDING US, INC. for a period of at least thirty (30) days during any anticipated labor disruption or resulting from the expiration of Supplier's labor contracts. If delay on the part of Supplier lasts longer than thirty (30) days, POWERCO HOLDING US, INC. may terminate the Order without liability and Supplier shall reimburse POWERCO HOLDING US, INC. for costs associated with the termination.

10 Insurance

- 10.1 Supplier shall maintain in force, and cause its Subcontractors to maintain in force, at its own expense, insurance of the type and in the amounts set forth below:
 - 10.1.1 Property All Risk insurance to cover Goods in transit, in warehouse or in storage whether on vehicles or in Facility(s) controlled or operated by Supplier or its Subcontractor or any other Third Person: Minimum limit of \$5,000,000 to cover full replacement cost of Goods including additional storage, clean-up costs, salvage, security, expediting or additional transportation fees. POWERCO HOLDING US, INC. will be added as loss payee and additional insured with respect to its interest in the Goods;
 - 10.1.2 Statutory workers' compensation insurance in accordance with the legal requirements of each country, state, territory, or locality exercising jurisdiction over the Personnel of Supplier and/or Subcontractor performing Services in such country, state, territory, or locality;
 - 10.1.3 Employer's liability insurance with a minimum limit in an amount not less than \$1,000,000 per accident, covering bodily injury by accident, and \$1,000,000 per policy covering bodily injury by disease, including death;
 - 10.1.4 Comprehensive commercial general liability insurance (written on an occurrence basis and including contractual liability and products and completed operations liability insurance) in an amount not less than \$5,000,000 per occurrence, general aggregate, products and completed operations aggregate. POWERCO HOLDING US, INC. and its Personnel shall be named as additional insureds as respect to its interest in the Goods.
 - 10.1.5 Comprehensive automobile liability insurance for owned, hired or non-owned vehicles with a combined single limit in an amount not less than \$5,000,000 per accident for bodily injury and property damage liability. POWERCO HOLDING US, INC. and its Personnel shall be named as additional insureds.
 - 10.1.6 Professional Liability or Errors and Omissions liability insurance to cover Losses due to Supplier's errors or omissions in the performance or failure to perform its professional Services obligations or responsibilities under the Order, with a per claim limit in an amount not less than the greater of \$2,000,000 and the value of the applicable Purchase Order(s) and the greater of \$2,000,000 or the value of the applicable Purchase Order(s) in the annual aggregate;
 - 10.1.7 Employee fidelity bond with Third Person liability endorsement or POWERCO HOLDING US, INC. added as loss payee in an amount not less than \$500,000;
 - 10.1.8 Umbrella/excess liability (written on an occurrence basis) in an amount not less than the greater of \$10,000,000 or the value of the applicable Purchase Order, as applicable, per occurrence. POWERCO HOLDING US, INC. and its Personnel shall be named as additional insureds; and
 - 10.1.9 Insurance coverage with respect to information and data protection security, cyber liability and similar matters with respect to information security in amounts not less than \$5,000,000.
- 10.2 All policies described above will be written by insurance companies rated at least A-:VII by A.M. Best's rating service or equivalent. The required insurance will provide primary and non-contributory coverage to POWERCO HOLDING US, INC. for claims arising out of or in connection with the Order.
- 10.3 Supplier, for itself and its Subcontractors, including their respective insurance carriers, hereby agrees to waive any right of subrogation and have no right of recovery from POWERCO HOLDING US, INC., its

Personnel or its insurers. Supplier, for itself and on behalf of its Subcontractors, warrants that their respective insurance carriers grant them the right to agree to such advance waivers of subrogation. Supplier represents that required types and amounts of insurance will necessarily be adequate to respond to all exposures to Losses. The required limits of insurance shall not be deemed as a limitation or maximum liability with respect to the indemnity obligations as set forth under the Order or these Terms. Supplier agrees to be financially responsible for its and its Subcontractors' respective deductibles, retentions, self-insurance or co-insurance obligations, or claims or Losses in excess of the required insurance coverage limits.

- 10.4 Insurance Documentation. On or before the Effective Date of the Order, and annually thereafter upon expiration, Supplier, and if applicable its Subcontractor, will furnish to POWERCO HOLDING US, INC. certificates of insurance and other appropriate documentation (including endorsements as required to bind the insurers) evidencing all coverage referenced in this Article. Such certificates or other documentation will include a provision under which the applicable insurer will give at least thirty (30) days' written notice to POWERCO HOLDING US, INC. before limits or scopes of coverage are materially altered or insurance is cancelled or non-renewed. Supplier also will require by contract that each Subcontractor furnish such certificates and other appropriate documentation to POWERCO HOLDING US, INC. and that the certificates or other appropriate documentation include a provision under which the applicable insurer will give at least thirty (30) days' written notice to POWERCO HOLDING US, INC. before limits or scopes of coverage are materially altered or insurance is cancelled or non-renewed. Without limiting any of the rights and remedies available to POWERCO HOLDING US, INC., it shall be a condition precedent to POWERCO HOLDING US, INC.'s obligation to pay Supplier that Supplier shall have timely provided the certificates or certified copies of insurance policies as required herein. In addition, Supplier will promptly advise POWERCO HOLDING US, INC. in writing if it becomes aware that required limits or scopes of coverage are materially altered or that required insurance is cancelled or non-renewed.

11 Intellectual Property

- 11.1 Intellectual Property Representations. Supplier hereby represents and warrants to POWERCO HOLDING US, INC. that it owns all rights in (or has obtained all rights necessary to license or otherwise furnish to POWERCO HOLDING US, INC.) the Goods and Services (including software, microcode, and other intellectual property of any sort) provided to POWERCO HOLDING US, INC. under the Order. POWERCO HOLDING US, INC. hereby represents and warrants to Supplier that it owns all rights in (or has obtained all rights necessary to license or otherwise furnish to Supplier) all materials furnished by POWERCO HOLDING US, INC. to Supplier and which Supplier uses in connection with its production of the Goods or the rendering of the Services including without limitation any artwork or files furnished by POWERCO HOLDING US, INC. to Supplier.
- 11.2 Intellectual Property Covenant. Each Party shall retain all right, title and interest in and to all of its intellectual property and other proprietary information including without limitation trademarks, copyrights, writings, icons, layouts, original artwork and original practice, including any modifications, enhancements and/or other derivative works of such Party's intellectual property or other proprietary information that may arise as a result of the Order or the production of the Goods. All intellectual property and other proprietary information now or hereafter (i) owned by POWERCO HOLDING US, INC., (ii) acquired by Supplier under this Order for which POWERCO HOLDING US, INC. has agreed to reimburse or has reimbursed Supplier, or (iii) furnished by POWERCO HOLDING US, INC. to Supplier in connection with the production of the Goods or the performance of the Services under the Order (the "POWERCO HOLDING US, INC. Intellectual Property") shall remain POWERCO HOLDING US, INC.'s exclusive property and may only be used by Supplier in the performance of its duties under the Order.
- 11.3 Intellectual Property Rights. Except to the extent otherwise provided in the Order:
- 11.3.1 All "Work Product" (as defined below) shall be the exclusive property of POWERCO HOLDING US, INC.. Each Work Product shall be deemed to be a work-made-for-hire under the copyright laws of the United States. To the extent that any Work Product does not constitute a work-made-for-hire, Supplier and

its Subcontractor(s) hereby assign to POWERCO HOLDING US, INC., and its Affiliates as directed by POWERCO HOLDING US, INC., at the time of creation, all right, title, and interest in and to Work Product, including any and all copyrights, patents, trade secrets, trademarks and other proprietary rights it may have. Supplier shall, during and after the term of the Order, assist POWERCO HOLDING US, INC. in every reasonable way to secure, maintain and defend for the benefit POWERCO HOLDING US, INC. all copyrights, patents, trade secrets, trademarks, or other intellectual property or proprietary rights in and to the Work Product, including without limitation the completion of any paperwork reasonably requested by POWERCO HOLDING US, INC..

11.3.2 To the extent necessary for POWERCO HOLDING US, INC. to operate or use the Work Product, Supplier (and to the extent necessary, its Subcontractor(s)) shall and hereby do grant to POWERCO HOLDING US, INC. a royalty-free, worldwide, perpetual, irrevocable license (with the right to sublicense to any Affiliate) to use, copy and distribute, and create or develop derivatives or improvements of, any Supplier Tools.

11.4 Definitions. For purposes of the Order,

11.4.1 “Work Product” means everything delivered to POWERCO HOLDING US, INC. or its customer or client by Supplier under the Order (other than Supplier Tools), including without limitation all notes, reports, documentation, computer programs in object code and fully-commented source code form, or other literary works; all graphical works; all inventions, formulae, designs, processes, devices and any improvements on any of them; and any and all software, code, tools, materials, or other information arising or resulting from or developed by Supplier in the performance of Services under the Order.

11.4.2 “Supplier Tools” means any and all original works of authorship, inventions, designs, methodologies, processes, concepts or know-how created, owned or licensed by Supplier prior to commencing work for the benefit of POWERCO HOLDING US, INC., and identified in the Order in sufficient detail to distinguish it from Work Product developed under the Order. Supplier Tools includes all derivatives of or improvements on any Supplier Tools, whether interim copies or works, works in progress or final versions of any such items.

11.4.3 Names and Trademarks. Neither Party shall acquire, by reason of the Order, any right, title or interest in or to the other Party’s names, trade names or trademarks.

12 Term of the Order and Termination

12.1 Term of the Order. Except as otherwise expressly stated in the Order, the term of the Order will begin on the date it is issued (the “Effective Date”) and end on the day which is 180 days after all Goods have been delivered and Services have been performed (the “Termination Date”), unless extended or earlier terminated in accordance with these Terms.

12.2 Termination Without Cause. POWERCO HOLDING US, INC. may terminate the Order at any time after the Effective Date without cause upon 30 days’ prior written notice to Supplier. Upon receipt of written notice of termination, and unless otherwise directed by POWERCO HOLDING US, INC., Supplier will comply with the requirements of Section 12.5. Upon termination by POWERCO HOLDING US, INC. under this Section, POWERCO HOLDING US, INC. will be obligated to pay only the following without duplication: (i) the Order price for all finished Goods and Services in the quantities ordered by POWERCO HOLDING US, INC. that conform to the Order and are delivered to and accepted by POWERCO HOLDING US, INC. for which Supplier has not been paid and (ii) Supplier’s reasonable actual cost of carrying out its obligation under Section 12.5(d). POWERCO HOLDING US, INC. shall pay for Supplier’s reasonable actual cost of merchantable and usable work-in-process, as well as any parts and materials, which POWERCO HOLDING US, INC. requests be transferred to it under Section 12.5(b). Notwithstanding any other provision herein, POWERCO HOLDING US, INC. will have no obligation for and will not be required to pay Supplier, directly or on account of claims by Subcontractors, for lost profits, lost fees, lost business, loss of use, costs associated with business interruptions, unabsorbed overhead, interest on claims, product development or engineering costs, facilities or equipment rearrangement costs or rental, unamortized capital or depreciation costs, finished goods, work-in-process or raw materials that Supplier fabricates or procures in amounts exceeding those authorized in the Order, or general

administrative burden charges from termination of the Order, except as otherwise expressly stated in a separate Order issued by POWERCO HOLDING US, INC.. POWERCO HOLDING US, INC.'s obligation for any Supplier claims related to termination will not exceed the obligation POWERCO HOLDING US, INC. would have had to Supplier in the absence of termination. Supplier will furnish to POWERCO HOLDING US, INC., within one month after the date of termination, its termination claim, which will consist exclusively of the claims eligible for reimbursement by POWERCO HOLDING US, INC. to Supplier that are expressly permitted by this Section. POWERCO HOLDING US, INC. may audit Supplier's records before or after payment to verify amounts requested in Supplier's termination claim.

12.3 Termination for Cause. Either Party (the "Non-Defaulting Party") may terminate the Order if the other Party (the "Defaulting Party") breaches any of its material duties or material obligations under the Order or these Terms, by delivering to the Defaulting Party a written default notice (the "Default Notice"). The Default Notice shall specify (i) the default(s) in reasonable detail, (ii) the action necessary to cure the default(s), and (iii) the cure period within which the Defaulting Party must cure the default(s), which cure period shall not be less than thirty (30) days for a payment default, and ten (10) days for a performance default (the "Cure Period"). If the Defaulting Party cures the default(s) within the applicable Cure Period to the reasonable satisfaction of the Non-Defaulting Party, the Non-Defaulting Party will rescind the Default Notice. If the Defaulting Party does not cure the default(s) during the applicable Cure Period, at the option of the Non-Defaulting Party, the Order will terminate as of the close of business on the last day of the applicable Cure Period or on such later date as determined by the Non-Defaulting Party. Upon written notice of termination by POWERCO HOLDING US, INC., Supplier shall promptly return all amounts previously paid to Supplier by POWERCO HOLDING US, INC. for the Goods (if any) and, in addition to any other damages, POWERCO HOLDING US, INC. shall be entitled to, and Supplier shall pay to POWERCO HOLDING US, INC., damages equal to (i) all costs incurred by POWERCO HOLDING US, INC. in connection with the manufacturing of the Goods for the Order, including without limitation training, systems programming, site preparation, cost of supplies and facilities, excepting only such costs as are included in the price of substitute goods obtained from any other manufacturer and, (ii) the difference in price between the Goods to be delivered hereunder and substitute goods.

12.4 Termination for Insolvency

12.4.1 POWERCO HOLDING US, INC. may terminate the Order if Supplier (i) provides POWERCO HOLDING US, INC. grounds for insecurity, (ii) files for bankruptcy; (iii) becomes or is declared insolvent or is the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver or similar officer for it; (iv) makes an assignment for the benefit of all or substantially all of its creditors; (v) is unable to pay its debts generally as they come due; or (vi) enters into an agreement for the composition, extension or readjustment of substantially all of its obligations, by giving written notice to Supplier of its intention to terminate the Order as of a date specified in the written notice, which date will not be less than ten (10) days after the date of the written notice, during which time Supplier may cure such default by causing any such proceeding to be terminated or dismissed, or by providing POWERCO HOLDING US, INC. with verification of solvency or otherwise of its ability to perform its obligations hereunder. If Supplier fails to cause such proceeding to be terminated or dismissed or otherwise to provide POWERCO HOLDING US, INC. with the information set forth above, the Order will terminate on the date set forth in the written notice.

12.5 Termination Obligations

Upon receipt of written notice of termination, and unless otherwise directed by POWERCO HOLDING US, INC., Supplier will at no additional cost to POWERCO HOLDING US, INC.: (a) promptly terminate all work under the Order on the effective date of termination; (b) transfer title and deliver to POWERCO HOLDING US, INC. the finished Goods, the work in process, the parts and materials that Supplier reasonably produced or acquired according to quantities ordered by POWERCO HOLDING US, INC. and that Supplier cannot use in producing goods for itself or for others, together with all information and materials related to or otherwise used in connection with the Order, including without limitation packaging, documents, standards, databases, specifications, drawings, manufacturing processes or any other items of value (collectively, "POWERCO HOLDING US, INC.'s Property"); (c) prior to allocating any amounts received by POWERCO HOLDING US, INC. to any other source, Supplier shall upon termination for any

reason, first verify and settle any claims by Subcontractors for actual costs incurred directly as a result of the termination; (d) take actions reasonably necessary to protect property in Supplier's possession in which POWERCO HOLDING US, INC. has an interest until disposal instruction from POWERCO HOLDING US, INC. has been received; and (e) cooperate with POWERCO HOLDING US, INC. and its designees and provide the Services reasonably requested by POWERCO HOLDING US, INC. or its designees to allow POWERCO HOLDING US, INC.'s business operations to continue without material interruption or adverse effect, including with respect to POWERCO HOLDING US, INC.'s new supplier. Effective immediately upon termination and without further notice or legal action, POWERCO HOLDING US, INC. may enter Supplier's premises and take possession of all of POWERCO HOLDING US, INC.'s Property. POWERCO HOLDING US, INC. may direct that POWERCO HOLDING US, INC.'s Property be immediately released to POWERCO HOLDING US, INC. or delivered by Supplier to POWERCO HOLDING US, INC. in accordance with Article 4. POWERCO HOLDING US, INC. shall have no liability with respect to any of POWERCO HOLDING US, INC.'s Property until such property is in the actual possession of POWERCO HOLDING US, INC..

12.6 Transition Assistance

In addition to the Termination Obligations set forth in Section 12.5, upon expiration or termination of the Order for any reason, Supplier shall, at POWERCO HOLDING US, INC.'s request and at the original contract price and subject to these Terms, provide transition assistance services as reasonably requested by POWERCO HOLDING US, INC. for a period of up to ninety (90) days after the Termination Date (the "Transition Assistance Period"). During the Transition Assistance Period, Supplier shall provide transition assistance in order to facilitate the orderly transfer of responsibility for the Goods and Services then being provided by Supplier to POWERCO HOLDING US, INC. or its designees.

- 12.7 Survival of Certain Provisions. The provisions of the Order and these Terms that by their nature should survive any termination of the Order, including without limitation Sections 6 through 11, and will survive such termination and any transition assistance period, if requested.

13 Miscellaneous

- 13.1 Publicity. Neither Party will use the other Party's name, trademarks or service marks or refer to the other Party directly or indirectly in any media release, public announcement or public disclosure relating to the Order or its subject matter to the extent the materials in such media release, announcement or disclosure have not previously been made publicly available without obtaining specific written consent from the other Party for each such use or release, which consent may be withheld at the Party's sole discretion. This restriction includes, but is not limited to, any promotional or marketing materials, customer lists or business presentations (but not including any announcement intended solely for internal distribution by a Party or any disclosure required by legal, accounting or regulatory requirements beyond the reasonable control of a Party).

13.2 Notices. All consents, written notices, requests, demands, and other communications to be given or delivered under the Order will be in writing (including wire, telefax, e-mail or other electronic means) and will be deemed given (i) when delivered personally; (ii) on the second Business Day when sent by a nationally recognized overnight courier; (iii) on the third Business Day after being mailed by certified mail, return receipt requested; and (iv) if sent via wire, telefax, e-mail or other electronic means, upon receipt if properly confirmed. All written notices to POWERCO HOLDING US, INC. shall be sent to POWERCO HOLDING US, INC. 450 National Avenue, Mountain View, CA 94043, United States, to the attention of the named Business Owner, with a copy to the office of the Corporate Counsel at the same address, and a copy to the office of the General Counsel at the same address. All written notices to Supplier shall be sent to its address as set forth on the Order. Either Party may, upon written notice to the other Party, change its notice address under the Order.

- 13.3 Assignment. An Order will be binding upon and inure to the benefit of each Party and its successors and permitted assigns, but neither the Order nor any of the rights, interests or obligations under the Order may be assigned or delegated by either Party without the prior consent of the other Party; provided that POWERCO HOLDING US, INC. may assign or delegate the Order to an Affiliate without the prior

- consent of Supplier. A transaction that includes a sale of a substantial portion of Supplier's assets used for the production of Goods or the provision of Services or a merger, sale or exchange of stock or other equity interests or other transaction that would result in a change in control of Supplier shall constitute an assignment that requires the prior written consent of POWERCO HOLDING US, INC..
- 13.4 No Exclusivity. Nothing about the Order shall prevent POWERCO HOLDING US, INC. from securing similar or competing services or goods from a third party.
- 13.5 Relationship of the Parties. Supplier, in furnishing Goods and Services to POWERCO HOLDING US, INC. under the Order, is acting only as an independent contractor. Except as otherwise stated in the Order, Supplier does not undertake to perform any obligation of POWERCO HOLDING US, INC., whether regulatory or contractual, or to assume any responsibility for POWERCO HOLDING US, INC.'s business or operations, and Supplier has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed, all work to be performed by Supplier. In no event will POWERCO HOLDING US, INC. be deemed to be an employer or co-employer of any Personnel of Supplier and the Order may not otherwise be construed to create a partnership or joint venture relationship between the Parties.
- 13.6 Restriction on Hiring. Supplier agrees not to hire or solicit for hire any employee or subcontractor of POWERCO HOLDING US, INC. during the Term of the Order and for a period of one year after the termination or expiration of the Order; provided, however, that the foregoing restriction shall not apply to the extent that such employee may answer a public advertisement for an open position.
- 13.7 Approvals and Similar Actions. Where agreement, approval, acceptance, consent or similar action by Supplier is required by any provision of the Order, such action will not be unreasonably delayed or withheld. If governmental approval of the sale or use of the Goods and/or Services in any state is required by any law, court order or regulation, Supplier, at its expense, will obtain such approval in sufficient time to permit the sale or use of the Goods and/or Services in such state in accordance with POWERCO HOLDING US, INC.'s schedule, and will furnish an authenticated copy of each such approval to POWERCO HOLDING US, INC..
- 13.8 Modification; Waiver. Except as stated in Article 3, the Order may be modified only by a written instrument duly executed by the Parties. No delay or omission by either Party to exercise any right or power under the Order will impair such right or power or be construed to be a waiver of the right or power. A waiver by either Party of any of the obligations to be performed by the other Party or any breach thereof will not be construed to be a waiver of any succeeding breach thereof or of any other obligation contained in the Order.
- 13.9 No Third-Party Beneficiaries. Each Order is for the sole benefit of the Parties and is not intended to, and shall not, confer any rights or benefits on any Third Person.
- 13.10 These Terms may be amended from time to time. Amendments shall be posted on Volkswagen's Supplier Portal website at www.vwgroupsupply.com and Parties agree they shall be effective the day of posting. No other notice will be given and Supplier has the obligation to check the website for any such amendments.
- 13.11 Severability. If any term of the Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, the term will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with applicable law. The remaining provisions of the Order will remain in full force and effect.
- 13.12 Governing Law. An Order will be governed by the laws of the State of California and the United States of America. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, and any conflict-of-laws provisions that would require application of another choice of law are excluded. The arbitration provisions herein, including their enforceability, will be further governed as set forth in Section 13.13.

13.13 Resolution of Claims and Disputes

13.13.1 The Parties agree to resolve all claims and disputes ("Claims") in accordance with this Section 13.13. For purposes of the Order, a Claim includes any demand, assertion, request or other claim made with respect to any matter arising out of or related to the Goods, Services and/or the Order. Claims must be made by written notice specifying the existence and nature of the claim provided within a reasonable time following the occurrence of the event giving rise to the Claim. The responsibility to substantiate Claims shall rest with the Party making the Claim.

- (a) Initial Meeting. Not less than ten (10) days following receipt of such notice, the Parties shall meet and attempt to resolve such Claim at the field level (the "Initial Meeting") through discussions between both parties' respective field representatives (the "Representatives").
- (b) Second Meeting. If the Representatives cannot resolve the Claim within thirty (30) days after the Initial Meeting, then, upon the request of either Party, the Parties' managers, supervisors, or other designated executives (the "Executives") shall meet again and attempt to resolve such Claim (the "Second Meeting").
- (c) Meeting Procedures. At least three (3) Business Days prior to any meetings between the Parties, including the Representatives, the Parties shall exchange any relevant information that will assist the Parties in resolving the Claim. Either Party may elect to be accompanied at any meeting by an attorney provided that the Party intending to be accompanied by an attorney shall give the other Party at least five (5) days' notice of such intention.
- (d) Mediation. If the Claim is not resolved not within fourteen (14) days after the Second Meeting, the Parties shall submit the Claim to non-binding mediation. If the Parties cannot agree on a mediator, the Parties shall submit the Claim to the American Arbitration Association ("AAA") for mediation administered in accordance with the Commercial Arbitration Rules and Mediation Procedures of the AAA ("AAA Rules") then in effect. Not less than seven (7) days after the selection of the mediator, the Parties and the mediator shall participate in a pre-mediation conference to determine the time and place of the mediation. All fees and expenses of the mediator shall be shared equally by the Parties and each Party shall submit to the mediator such information or position papers as the mediator may request to assist in resolving the Claim. The Parties (i) will not attempt to subpoena or otherwise use as a witness any person who serves as a mediator and (ii) will assert no claims against the mediator as a result of the mediation

13.13.2 Arbitration. All Claims not settled or resolved by the Parties in accordance with the settlement and mediation procedures set forth herein shall be resolved by binding arbitration and each Party shall act in accordance with the AAA Rules and in accordance with these Terms. Notwithstanding any other provision herein to the contrary, if a Claim is not settled or resolved within one hundred and twenty (120) days after the Initial Meeting, either Party may submit the Claim to binding arbitration in accordance with the AAA Rules and in accordance with these Terms.

13.13.3 Equitable Relief. Notwithstanding any other provision herein to the contrary, either Party may, with respect to a Claim, apply to a court for equitable relief, including a temporary restraining order, preliminary injunction or other interlocutory or relief, provided that such application for equitable relief will not delay or adversely affect in any material respect the date set by POWERCO HOLDING US, INC. for completion of the project. The Arbitration Panel (as defined below) shall have the authority to modify any court order granting such interlocutory relief and such court order shall remain in full force and effect until so modified. Any such court or Arbitration Panel order may be enforced in any court having jurisdiction thereof. Any court relief sought under this Section shall be brought in and subject to the exclusive venue and jurisdiction of the courts of Santa Clara County, California or the U.S. District Court for the Northern District of California, San Jose Division, as applicable, provided that POWERCO HOLDING US, INC. may elect to seek such relief against Supplier in any court having jurisdiction over Supplier.

13.13.4 Continuing Obligations. In the event of any dispute arising by or between the Parties, each Party shall

continue to perform as required under the Contract notwithstanding the existence of such dispute. In the event of such a dispute, POWERCO HOLDING US, INC. shall continue to pay the Supplier as provided in the Agreement, excepting only such amount as may be disputed.

- 13.13.5 Arbitration Proceedings. The arbitration provisions under the Agreement, including their enforceability, shall be governed by the Federal Arbitration Act or the California Uniform Arbitration Act, as applicable ("Arbitration Acts"). All arbitration proceedings shall be conducted in Santa Clara County, USA in the English language in accordance with the AAA Rules.
- 13.13.6 Arbitrator Qualifications. Unless the Parties otherwise agree in writing, the arbitration shall be conducted using a panel of three (3) arbitrators ("Arbitration Panel") who are selected by the Parties in accordance with the AAA Rules from the AAA National Commercial Panel and who are practicing attorneys who have experience with respect to equipment and supplies transactions for large manufacturing facilities. If the procedures of the AAA Rules do not result in the selection by the Parties of a panel of three (3) arbitrators, then each Party shall appoint to the Arbitration Panel one (1) neutral arbitrator who meets the required qualifications, and the two (2) neutral arbitrators selected by the Parties shall appoint a third neutral arbitrator who meets such qualifications. If either Party does not appoint a neutral arbitrator within two (2) weeks of being notified that it is required to do so, the AAA will appoint an arbitrator for such Party.
- 13.13.7 Arbitration Award. The Arbitration Panel shall issue a written, reasoned award stating the bases of the award and including detailed findings of fact and conclusions of law. The award rendered by the Arbitration Panel shall be final, and judgment may be entered upon it and enforced without prejudice to the rights of either Party to seek vacation of the award in accordance with the Arbitration Acts in any court having jurisdiction thereof.

- 13.13.8 Arbitration Fees and Expenses; Attorneys' Fees. Fees and expenses in connection with the arbitration, including without limitation reasonable attorneys' fees and dispute resolution costs, in addition to any other damages or other amounts to which it may be entitled, shall be awarded to the prevailing party. The failure by one Party to pay its share of arbitration fees and expenses in accordance with the AAA Rules shall constitute a waiver of such Party's Claim or defense in the arbitration.
- 13.13.9 Confidentiality. All arbitration proceedings and other information and matters relating to the arbitration shall be confidential, except to the extent that disclosure is necessary to enforce an arbitration award in a court of competent jurisdiction; provided that any such disclosure shall be to the most limited extent possible to accomplish such enforcement of the award and either Party may seek a protective order in connection therewith. The Parties agree to maintain such confidentiality.
- 13.13.10 Statute of Limitations. In no event shall a demand for mediation or arbitration be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by applicable statutes of limitations or repose.
- 13.13.11 Waiver of Joinder Objection. Supplier waives all objections to joinder of Supplier as a party to any mediation, arbitration or litigation related to the Order in which POWERCO HOLDING US, INC. is joined with respect to which Supplier's conduct, Goods or Services have some relationship. Supplier also agrees to include in all contracts used or prepared by Supplier similar waivers on behalf of any and all individuals or entities with whom Supplier enters into a contract. Such contracts in which Supplier must include similar waivers include without limitation, contracts between Supplier and any individual or entity having a direct contract with Supplier for any Goods or Services relating to the Order, and any general and supplemental conditions applicable to such contracts.
- 13.13.12 Joinder. Either Party may include by joinder individuals or entities in accordance with the AAA Rules.
- 13.14 Entire Agreement. Except as otherwise expressly stated in a writing signed by both Parties, the Order, together with the attachments, exhibits, specifications, meeting minutes, supplements or other terms of POWERCO HOLDING US, INC. specifically referenced therein, and these Terms, constitute the final, entire, and exclusive agreement between the Parties with respect to the subject matter hereof.
- 13.15 Waiver of Jury Trial. POWERCO HOLDING US, INC. AND SUPPLIER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF POWERCO HOLDING US, INC. AND SUPPLIER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY ORDER OR OTHER DOCUMENT PERTAINING TO ANY ORDER.
- 13.16 Claims by Supplier. Any legal action or arbitration proceeding by Supplier under any Order must be commenced no later than one (1) year after the breach or other event giving rise to Supplier's claim occurs, or Supplier becomes aware of the existence (or facts and circumstances giving rise to the existence) of such claim, whichever occurs first.
- 13.17 Battle of the Forms Not Applicable. The Parties have agreed and it is their intent that the battle of the forms described in Section 2-207 of the Uniform Commercial Code shall not apply to these Terms or to any invoice or acceptance form of Supplier relating to these Terms. It is the Parties' intent that these Terms shall exclusively control the relationship of the Parties, and in the event of any inconsistency between any invoice or acceptance form sent by Supplier to POWERCO HOLDING US, INC. and these Terms, these Terms shall control.
- 13.18 Remedies Cumulative. All rights and remedies set forth in these Terms are in addition to rights and remedies available to POWERCO HOLDING US, INC. at law or in equity. Each of the rights and remedies reserved to POWERCO HOLDING US, INC. in these Terms shall be cumulative and the assertion of POWERCO HOLDING US, INC. of any right or remedy shall not preclude the assertion by

POWERCO HOLDING US, INC. of any other rights or the seeking of any other remedies. All costs incurred in connection with any remedy, including all travel expenses and daily allowances as well as any and all attorneys' fees and costs incurred by POWERCO HOLDING US, INC. as a result of Supplier's breach of its obligations, shall be the obligation of Supplier. Supplier shall not have any right of setoff.

- 13.19 Supplemental Terms and Conditions. POWERCO HOLDING US, INC. may issue supplemental terms and conditions to address special or additional requirements.
- 13.20 Interpretation. Supplier and POWERCO HOLDING US, INC. agree that the Order, including these Terms, was negotiated by the Parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring provisions to be construed or interpreted against any Party as having been drafted by it will not apply.

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