
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

**CURRENT REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

DATE OF REPORT: August 7, 2006
(Date of earliest event reported)

POWELL INDUSTRIES, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
*(State or other jurisdiction of
incorporation or organization)*

001-12488
(Commission File Number)

88-0106100
(I.R.S. Employer Identification Number)

8550 Mosley Drive
Houston, Texas
(Address of Principal Executive Offices)

77075-1180
(Zip Code)

(713) 944-6900
(Registrant's Telephone Number, Including Area Code)

N/A
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17CFR230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17CFR240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17CFR240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17CFR240.13e-4(c))
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Item 1.01 — Entry into a Material Definitive Agreement

On August 7, 2006, the Company entered into and consummated an Asset Purchase Agreement (the “Purchase Agreement”) with General Electric Company, a New York corporation (“GE”), pursuant to which the Company purchased the business and certain assets related to the medium voltage switchgear and circuit breaker business of the GE Consumer & Industrial component of GE located at its West Burlington, Iowa facility (the “Business”). The Company paid \$32 million for the Business, which is payable in five installments due every 10 months over a period of 40 months following closing, with the first payment of \$8.5 million having been delivered at closing. The remaining payments are \$5.5 million, \$6.25 million, \$6.25 million and \$5.5 million, respectively. GE provided the Company with typical representations and warranties in connection with the Purchase Agreement. The Company has the option to purchase additional equipment at a future date and is required to purchase the inventory of the Business for an additional consideration after completion of the transition of the Business to a facility of the Company’s in Houston, Texas. The Purchase Agreement is filed with certain confidential portions redacted as Exhibit 2.1 to this Form 8-K.

In connection with the Purchase Agreement described above, the Company entered into the Powell Supply Agreement (the “Powell Agreement” and together with the Purchase Agreement, the “Transaction Agreements”) with GE on August 7, 2006. The Powell Agreement is a 15 year supply agreement, with successive three-year renewals unless otherwise determined by either party, pursuant to which GE will purchase from the Company, subject to limited conditions for exceptions, all of its requirements for medium voltage switchgear and circuit breakers and other related equipment and components. In conjunction with the Purchase Agreement and the Powell Agreement, the Company has agreed to purchase certain of its requirements for components from GE and GE has agreed to provide services related to the transitioning of the Business from West Burlington, Iowa to the Company’s Houston, Texas facility. The Powell Agreement is filed with certain confidential portions redacted as Exhibit 10.1 to this Form 8-K.

The Company entered into a seven year lease for additional space in Houston, Texas in connection with the transactions contemplated by the Transaction Agreements with two successive five-year options to renew. This space is located on Kurland Road in Houston, Texas and increases the Company’s leased space in Houston by approximately 140,000 square feet. The lease will cost approximately \$34,000 per month. The lease agreement is filed as Exhibit 10.2 to this Form 8-K.

Finally, in order to partially finance the acquisition of the Business, the cost of transitioning the Business to Houston, Texas and the added costs to operate the Business, the Company amended its exiting credit agreement with Bank of America, N.A. as administrative agent and with certain other financial institutions to increase its revolving line of credit by \$20 million to \$42 million. This line of credit expires on December 31, 2010. Except for the increase, no other significant terms of the facility as described in our Form 10-K for the fiscal year ended October 31, 2005 were amended. The amendment is filed as Exhibit 10.3 to this Form 8-K.

Item 2.01 — Completion of Acquisition or Disposition of Assets

The description of the Purchase Agreement set forth in Item 1.01 above is hereby incorporated into this Item 2.01 by reference.

Item 8.01 —Other Information

Non-GAAP Financial Measures

The following table represents a reconciliation of the expected incremental EBITDA to the Company anticipated to be derived after the integration by the Company from the Business acquired under the Purchase Agreement.

	Projected Annualized EBITDA (In millions)	
	Low Case	High Case
Income from business acquired before income taxes	\$ 3.2	\$ 4.2
Interest expense	1.8	1.8
Depreciation and amortization	2.0	2.0
Expected EBITDA	\$ 7.0	\$ 8.0

The preceding table presents a reconciliation of EBITDA expected to be derived by the Company to income from business acquired before income taxes from the business purchased today after the integration of this transaction. EBITDA represents net income before income taxes, interest, and depreciation and amortization. Other companies may define EBITDA differently. EBITDA should not be considered an alternative to income from operations, net income or cash flows. Expected EBITDA represents projected net income before income taxes, interest and depreciation and amortization attributable to the Business purchased today. Expected EBITDA is presented as a supplemental financial measure management considers useful in the evaluation of our business. We believe that it provides additional information regarding our ability to meet our future debt services, capital expenditure and working capital requirements.

EBITDA is widely used by investors and rating agencies in the valuation, comparison, rating and investment recommendation of companies. EBITDA is also a financial measure that will be reported to our lenders pursuant to our credit agreement and is used in our financial covenants. The Company also believes the disclosure of EBITDA will help investors meaningfully evaluate and compare its cash flow generating capacity from quarter to quarter and year to year. EBITDA is also one of the financial metrics used by management (i) as a supplemental internal measure for planning and forecasting overall expectations and for evaluating actual results against such expectations; (ii) to compare to the EBITDA of other companies when evaluating potential acquisitions; and (iii) to assess the Company's ability to service existing fixed charges and incur additional indebtedness. Although management has not historically reported EBITDA, expected EBITDA was calculated in connection with the purchase concluded today as part of our evaluation of the purchased business.

Item 9.01 — Financial Statements and Exhibits

(d) *Exhibits*

Exhibit Number	Description
2.1*	Asset Purchase Agreement between the Company and General Electric Company dated August 7, 2006.
10.1*	Powell Supply Agreement between the Company and General Electric Company dated August 7, 2006.
10.2	Lease Agreement between the Company and C&L Partnership, Ltd. dated April 19, 2006.
10.3	Third Amendment to Credit Agreement with Bank of America, N.A. dated August 4, 2006.

* Portions of this exhibit have been omitted based on a request for confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934. Such omitted portions have been filed separately with the Commission.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

POWELL INDUSTRIES, INC.

Date: August 9, 2006

By: /s/ DON R. MADISON

Don R. Madison
Vice President
Chief Financial Officer
(Principal Accounting and Financial Officer)

Exhibit Index

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ASSET PURCHASE AGREEMENT

BY AND BETWEEN

POWELL INDUSTRIES, INC.,
A **DELAWARE CORPORATION,**
AS **BUYER,**

AND

GENERAL ELECTRIC COMPANY,
A **NEW YORK CORPORATION,**
AS **SELLER**

Dated: August 7, 2006

* A confidential portion of material has been omitted and filed separately with the Commission

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* A confidential portion of material has been omitted and filed separately with the Commission

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement, dated as of August 7, 2006 (together with the schedules attached hereto, the "**Agreement**") is by and among Powell Industries, Inc., a Delaware corporation (the "**Buyer**") and General Electric Company, a New York corporation (the "**Seller**").

Recitals:

Seller and Buyer have executed and delivered that certain non-binding letter of intent dated February 23, 2006 (the "**Letter**"), pursuant to which such parties intend that Buyer purchase (the "**Acquisition**") the business and selected assets of the ANSI Medium Voltage Switchgear and Circuit Breaker business of Seller's Consumer & Industrial business unit, but excluding, without limitation, Low Voltage Switchgear and Circuit Breakers, Non-ANSI Medium Voltage Switchgear and Circuit Breakers and Vacuum Bottles (collectively, the "**Business**"). The Letter contemplates the negotiation and execution of a legally binding, written "Asset Purchase Agreement" setting forth the terms and conditions of the sale described in the Letter. Capitalized terms used in this Agreement (other than those grammatically required to be capitalized) shall have the meanings ascribed to them in the Section in which they first appear in bold type or in attached Schedule A. Capitalized terms not defined herein are defined and cross referenced in attached Schedule A.

Buyer and Seller intend that this Agreement constitute the Asset Purchase Agreement, setting forth the purchase price and the other terms and conditions on which Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Business, including the Acquired Assets.

Agreement:

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements set forth herein and in reliance upon the representations and warranties contained herein, the parties hereto covenant and agree as follows:

ARTICLE 1 SALE AND PURCHASE

1.1 Sale and Purchase of Assets

On the terms and subject to the conditions contained in this Agreement, Seller shall sell, transfer, convey, assign and deliver to Buyer at the Closing, but effective as of the Effective Time on the Closing Date, and Buyer shall purchase from Seller, free and clear of all liens, encumbrances, mortgages, pledges, charges, options, rights, security interests, agreements, or claims of any nature whatsoever, recorded or unrecorded, in favor of any party (individually a "**Lien**" and collectively the "**Liens**"), all of Seller's right, title and interest in and to Seller's properties and assets, wherever located, as described and referred to on Schedule 1.1 attached hereto (the "**Acquired Assets**"). Assets of Seller other than Acquired Assets are referred to as Excluded Assets.

1.2 Payment or Assumption of Assumed Liabilities; Assumed Contracts

Buyer shall (i) assume only the debts, obligations and liabilities of Seller expressly set forth in Schedule 1.2 (collectively, the “**Assumed Liabilities**”) and shall perform such Assumed Liabilities in accordance with their terms or otherwise arrange for their discharge and (ii) perform the contractual obligations of Seller that accrue after the Closing under the contracts listed in Schedule 1.2 and assigned to and expressly assumed by Buyer (“**Assumed Contracts**”), but excluding any debts, liabilities and/or obligations with respect to any breach or default under any of the Assumed Contracts in which any facts and/or circumstances leading to or constituting such breach or default occurred on or before the Effective Time, all of which shall be the Excluded Liabilities, in addition to those described in Section 1.3 below.

1.3 Excluded Liabilities

Other than the assumption of the Assumed Liabilities set forth on Schedule 1.2 and the performance of the Assumed Contracts set forth on Schedule 1.2 in accordance with Section 1.2, Buyer shall neither assume nor be obligated to pay, perform or discharge any debts, obligations or liabilities of Seller of any kind or nature, whether such debts, liabilities or obligations related to or arose out of the conduct of the Business or the operation of the assets used in the Business, including the Acquired Assets, the Other Equipment (as discussed in Section 1.5) and the Inventory (as discussed in Section 1.6), whether accrued, absolute, contingent or otherwise, whether due, to become due or otherwise, whether known or unknown, which debts, liabilities and obligations, if ever in existence, shall be debts, liabilities and obligations of Seller (the “**Excluded Liabilities**”):

1.4 Purchase Price

(a) *Purchase Price*. In consideration for the sale and assignment by Seller to Buyer of the Business and the Acquired Assets, Buyer shall assume or discharge, as applicable, the Assumed Liabilities and Buyer shall pay to Seller the purchase price of THIRTY-TWO MILLION UNITED STATES DOLLARS (\$32,000,000.00) (the “**Purchase Price**”) as follows:

- (i) Eight Million Five Hundred Thousand United States Dollars (\$8,500,000.00), will be paid at Closing (the “**First Installment**”); and
- (ii) Twenty Three Million Five Hundred Thousand United States Dollars (\$23,500,000.00) will be paid in the following installments:
 - a) Five Million Five Hundred Thousand United States Dollars (\$5,500,000.00) will be paid ten (10) months after Closing (the “**Second Installment**”);
 - b) Six Million Two Hundred and Fifty Thousand United States Dollars (\$6,250,000.00) will be paid twenty (20) months after Closing (the “**Third Installment**”);

c) Six Million Two Hundred and Fifty Thousand United States Dollars (\$6,250,000.00) will be paid thirty (30) months after Closing (the “**Fourth Installment**”); and

d) Five Million Five Hundred Thousand United States Dollars (\$5,500,000.00) will be paid forty (40) months after Closing (the “**Final Installment**”).

(b) *No Tax Adjustment.* Purchase Price shall not be reduced for any sales Tax, use Tax, real property transfer or gains Tax, documentary stamp Tax or similar Tax (including all related fees, assessments, recording charges and other similar costs) attributable to the sale or transfer of the Acquired Assets pursuant to the Acquisition. Buyer and Seller each agree to timely sign and deliver (or to cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate to establish an exemption from (or otherwise reduce), or file Tax returns with respect to, such Taxes.

1.5 Other Equipment

At any time during the two (2) year period after the Closing Date, Buyer shall have the option (without obligation to do so) to purchase any equipment used by Seller in the Business at any time since December 31, 2005 which on the Closing Date had a net book value on Seller’s accounting system greater than zero (the “**Other Equipment**”) at a price equal to the net book value on the date of such purchase by Buyer in Seller’s accounting system (the “**Other Equipment Purchase Price**”). For purposes hereof, “**net book value**” for each item of Other Equipment shall mean the original cost of such item less accumulated depreciation on a monthly basis through, as applicable (i) the Closing Date or (ii) the date of purchase of such Other Equipment by Buyer, as calculated in accordance with Seller’s historical accounting practices. Payment by Buyer for such Other Equipment shall be due upon transfer of possession of the same by Seller to Buyer. The Other Equipment Purchase Price shall be in addition to the Purchase Price set forth in Section 1.4 above. The option to purchase set forth in this Section 1.5 applies to manufacturing equipment (other than jigs, tooling and fixtures included in the Acquired Assets) of Seller associated exclusively with the Business as it existed December 31, 2005 or acquired by Seller thereafter, wherever located, whether or not recorded on any fixed asset listing. The purchase of the Other Equipment will be effected pursuant to an “Bill of Sale and Assignment” to be executed by Seller in favor of Buyer in substantially the form of Appendix 1.5.

1.6 Inventory

At the end of the term of the Transition Services Agreement a copy of which is attached hereto as **Appendix 6.6**, or at such earlier time post-Closing as Seller ceases to manufacture products for Buyer for sale in the Business by Buyer as contemplated in the Transition Services Agreement, Buyer shall purchase from Seller all nonobsolete raw materials and finished goods inventory (the “**Inventory**”) maintained by Seller exclusively for use in serving the needs of the Business that is not in excess of a twelve-month supply at a price (the “**Inventory Price**”) equal to the carrying value of such inventory in Seller’s accounting records as of the date of such purchase, with such inventory carrying value being determined in a manner consistent with

Seller's past practices for such inventory and consistent with good accounting practices that would permit reporting, without exception, of such inventory in the Business' financial statements prepared in accordance with generally accepted accounting principles. The purchase of the Inventory will be effective pursuant to a "Bill of Sale and Assignment" to be executed by Seller in favor of Buyer in substantially the form of Appendix 1.5.

1.7 Intellectual Property

(a) Seller agrees to grant and hereby grants to Buyer a nonexclusive license to practice or otherwise use the Intellectual Property owned by Seller, and agrees to permit access to such Intellectual Property as Buyer may request, that is necessary to the continued operation of the Business, limited to the current scope of the Business as operated by Seller and excluding the use of any trademarks of Seller that are not transferred to Buyer in the Acquisition. The term "Intellectual Property" as used herein means patents, trademarks, copyrights, copyrightable works, servicemarks, trade dress, logos, trade names, corporate or business names, or applications therefor or registrations, renewals, translations, adaptations, derivations or combinations thereof, software, source code, object code, trade secrets, proprietary rights, inventions, URLs and confidential business information owned by Seller and material to the Business.

(b) Buyer acknowledges Seller is the owner of the POWERVAC trademark registration 975747 in China. No rights in this Chinese trademark registration are conveyed to Buyer. Buyer agrees not to manufacture, use, distribute or sell any products or services under the POWERVAC trademark in China other than in association with Buyer's supply of products to Seller. Seller acknowledges that, following the Closing, Buyer will be the owner of the registered POWERVAC trademarks in the United States and Brazil as set forth on Schedule 2.17 and common law trademark rights associated with the Business in locations other than China. No rights in such registered trademarks in the United States and Brazil or such common law rights will be retained by Seller. Buyer agrees not to enforce any such acquired trademark rights against any GE C&I China Affiliate product or service other than in the United States and Brazil (and their respective territories and protectorates to the extent governed by such registered trademarks and common law trademark rights applicable in such jurisdictions).

1.8 Closing

Subject to the terms and conditions hereof, the consummation of the sale and purchase of the Business and the Acquired Assets provided for herein (the "**Closing**") shall take place on August 7, 2006 (the "**Closing Date**") at the offices of Winstead Sechrest & Minick P.C., in Houston, Texas, at 9:00 a.m. local time, effective as of 12:01 a.m. Central Time on the Closing Date (the "**Effective Time**"), or at such other place or time upon which Buyer and Seller may mutually agree in writing. At the option of the parties to this Agreement, documents to be delivered at the Closing may be delivered to the place of Closing by facsimile transmission on the Closing Date, and the original documents shall be delivered to each of the parties on the first business day following the Closing Date. Each of Buyer and Seller shall further deliver such other evidence, instruments, documents, certificates and opinions required to be delivered by

* A confidential portion of material has been omitted and filed separately with the Commission

such parties pursuant to ARTICLE 6 and ARTICLE 7 hereof. At the Closing, Buyer (or an Affiliate of Buyer acting on Buyer's behalf), shall assume or discharge the Assumed Liabilities, whether to assume or discharge to be determined by Buyer in its sole discretion, and pay the First Installment to or at the instruction (provided at least three business days prior to the Closing Date) and for the benefit of Seller by wire transfer in immediately available federal funds.

1.9 Allocation of Purchase Price

Within ninety (90) days after the Closing, Buyer and Seller shall cooperate in good faith in establishing the allocation among the assets for all Tax purposes and for use in all Tax filings, declarations and reports in respect thereof.

1.10 Public Announcements

Buyer may issue a press release regarding the Acquisition, this Agreement and the Transaction Documents immediately (but in no event later than thirty (30) days) following the Closing Date, the substance of such announcement to be subject to reasonable changes by Seller; provided however, that Buyer shall have final approval with respect to any such press release, other than with respect to statements attributable to Seller. Seller may not make any public announcement with respect to this Agreement, the Acquisition or the Transaction Documents without the prior written consent of Buyer, which consent shall not be unreasonably withheld. Subject to the preceding sentences, and except as otherwise agreed in writing by Seller and Buyer or as required by law or regulation, each of Seller and Buyer shall maintain as confidential the existence of, and terms and conditions of, this Agreement and the other Transaction Documents. Seller acknowledges that Buyer will be required under the rules and regulations (the "SEC Rules") promulgated by the Securities and Exchange Commission (the "SEC") to file this Agreement and one or more of the Transaction Documents with the SEC within four days of the Effective Date. Buyer agrees to seek confidential treatment of certain sensitive provisions contained in such documents in the manner prescribed under the SEC Rules (which, among other things, would require a filing of the entire document to be mailed to the SEC one day prior to the required filing). Seller and Buyer agree to work together in redacting such provisions of this Agreement, the Purchase Agreement and the other Transaction Documents prior to the date that they are required to be filed with the SEC. [*] Notwithstanding the foregoing, Seller acknowledges that the filing is ultimately Buyer's disclosure requirement. Buyer can make no assurances that any of such provisions will not ultimately be required to be filed in the event such request for confidential treatment is reviewed by the SEC, and Seller agrees that Buyer will not be in violation of any provisions of this Agreement, the Powell Supply Agreement or any other Transaction Document to the extent it is required to file such provisions by the SEC.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer that, except as otherwise expressly stated herein, on the Closing Date:

2.1 Organization and Good Standing

Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of New York. Seller has all requisite corporate power and authority to own, hold, use and lease its properties and assets and to conduct its business as it is now being conducted. Seller is duly qualified as a foreign corporation and is in good standing in all jurisdictions in which the operation of the Acquired Assets or the Business requires it to be so qualified. Seller has delivered to Buyer true, complete and correct copies of its articles of incorporation and bylaws, as amended to the date of this Agreement.

2.2 Operating Structure

The Consumer & Industrial business unit and Energy business unit of Seller are each unincorporated operating divisions of Seller.

2.3 Partnership and Joint Ventures

Except as set forth in Schedule 2.3, Seller is not a participant in any partnership or joint venture related to the Business.

2.4 Authority of Seller

Seller has all requisite corporate power and authority to enter into, execute and deliver this Agreement and the other Transaction Documents to be executed by Seller and to perform the obligations to be performed by Seller hereunder and thereunder. The execution, delivery and compliance by Seller with the terms of this Agreement and the other Transaction Documents to be executed by Seller, and the consummation by Seller of the transactions contemplated hereby and thereby, have been duly authorized by all necessary corporate actions of Seller. This Agreement has been duly executed and delivered by Seller and this Agreement constitutes, and the other Transaction Documents contemplated hereby to be executed by Seller upon their execution and delivery as herein provided will constitute, the legal, valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms.

2.5 No Conflicts

The execution and delivery of this Agreement and the other Transaction Documents to be executed by Seller does not, and compliance by Seller with the terms hereof and thereof and consummation by Seller of the transactions contemplated hereby and thereby will not, (a) violate or conflict with any existing term or provision of any federal, state, county, municipal or local law, treaty, statute, code, ordinance, rule or regulation ("**Law**") or any order, writ, judgment, injunction, ruling, assessment, award or decree ("**Order**") of any Governmental Body applicable to Seller; (b) conflict with or result in a breach of or default under any of the terms, conditions or provisions of the articles of incorporation or bylaws or any other organizational documents of Seller or any agreement or instrument to which Seller is a party or otherwise subject, or by which Seller the Business or any of the Acquired Assets, the Other Equipment or the Inventory may be bound; (c) result in the creation or imposition of any Lien upon the Business or any of the Acquired Assets, the Other Equipment or the Inventory; (d) give to others any right of termination, cancellation, acceleration or modification in or with respect to any agreement or

instrument to which Seller is a party or otherwise subject, or by which Seller, the Business, the Acquired Assets, the Other Equipment or the Inventory may be bound or subject; or (e) breach any fiduciary duty owed by Seller to any person or entity.

2.6 Consents and Approvals

The execution and delivery by Seller of this Agreement and the other Transaction Documents to be executed by Seller, compliance by Seller with the terms hereof and thereof and consummation by Seller of the transactions contemplated hereby and thereby, do not require Seller to obtain any consent, approval or action of, make any filings with or give any notice to any corporation, person, firm or other entity, or any Governmental Body.

2.7 Title to Properties; Condition

Schedule 1.1 sets forth all of the Acquired Assets, including, without limitation, all of those items of equipment, jigs, tooling, fixtures and machinery exclusively related to the Business that are owned or leased by Seller and for which there is no net book value on the balance sheet of the Business as of the Effective Time (the “**ZNBV Equipment**”). Seller will deliver Schedule 1.1 at the Closing, but, if necessary, may update the included listing of ZNBV Equipment within 30 days after the Closing to include additional items of ZNBV Equipment that existed as of the Effective Time. Seller has (or with respect to the Other Equipment or the Inventory acquired after the date hereof, will have), and upon the sale, assignment, transfer and conveyance of the Acquired Assets, the Other Equipment and the Inventory to Buyer in accordance with this Agreement, there will be vested in Buyer, good and marketable title to the Acquired Assets, the Other Equipment and the Inventory, free and clear of any Liens. The equipment, jigs, tooling, fixtures and machinery that are included in the Acquired Assets and the Other Equipment (i) have been installed, operated and maintained in accordance with accepted industry practice, (ii) while in Seller’s possession and control have not indicated evidence of latent defects or defects of workmanship or materials, (iii) while in Seller’s possession and control have properly functioned for the purposes for which they have been and are being employed in the operation of the Business and (iv) are in good operating condition and repair, reasonable wear and tear excepted. Schedule 2.7 includes a list of all leases, maintenance agreements and other contracts, documents or agreements applicable to the Business and the Acquired Assets, the Other Equipment or the Inventory (collectively “**Contracts**”), and copies of each such document will be provided to Buyer upon request. There are no actual, pending or, to the knowledge of Seller, after reasonable inquiry, threatened claims against the Acquired Assets, the Other Equipment or the Inventory that could give rise to a Lien, or acts or incidents which could give rise to any such claims, relating to or arising out of the Acquired Assets, the Other Equipment or the Inventory or the operation of the Business. As to each Assumed Contract that constitutes part of the Acquired Assets, such Assumed Contract is in full force and effect, no notice of cancellation or termination or default has been received by Seller or any employee of Seller and no event or condition has occurred or exists which, with notice or lapse of time or both, would constitute a default thereunder. Seller has the right to transfer all of its right, title and interest in the Assumed Contracts included in the Acquired Assets without any consent other than a consent procured by Seller, a copy of which is provided to Buyer on or before the Closing Date, and the transfer contemplated hereby will not affect their validity or enforceability.

2.8 Income Statement

Attached hereto as Schedule 2.8 is a true and complete copy of Seller's internally prepared estimated Income Statement of the Business for the year ended December 31, 2005 under the caption, "MV Carve-Out Financials" dated December 31, 2005 (the "Income Statement"). The Income Statement and all information included therewith were prepared in good faith by Seller, are true and correct in all material respects and, taken as a whole, fairly present the estimated results of operations of the Business for the year ended December 31, 2005. The cost allocation assumptions associated with the Income Statement are based on the reasonable good faith estimates and applications of U.S. GAAP and carve out rules, as reflected in the Income Statement (including footnotes) of Seller. The audited financial statements required by Section 4.4 of this Agreement shall report the same gross margin (labeled in Schedule 2.8 as "Total Contribution Margin after Pro Forma Adjustments" and referred to herein as "**Gross Margin**") for the period ended December 31, 2005 as set forth in the Income Statement.

2.9 Customary Business Practice

Except for entertainment which is usual, customary and legally permissible and except for gifts of nominal value which are legally permissible, with respect to the Business, neither Seller nor any employee, officer, director or agent of Seller acting on behalf of Seller has, directly or indirectly, made or authorized the making of any offer, payment or promise to pay any money or give anything of value to (a) any official or employee of a Governmental Body, (b) any political party or official thereof or any candidate for political office or (c) any customer, supplier or competitor of Seller or any employee, officer or director thereof in order to assist Seller in obtaining or retaining business for or with, or directing business to, any person, nor engaged in any other practice (including violation of any antitrust law or law regulating minority business enterprises), which would be likely to subject the Business to any damage or penalty in any civil, criminal or governmental litigation or proceeding or which would be likely to be used as the basis for termination or modification of any contract, license or other instrument related to the Business to which Seller is a party.

2.10 Absence of Certain Changes or Events

Except as set forth on Schedule 2.10, there has not been, occurred or arisen any of the following as they relate to the Business or any of the Acquired Assets, the Other Equipment or the Inventory since December 31, 2005.

- (a) any transaction by Seller except in the ordinary course of business, other than the execution and delivery of the Letter;
- (b) any capital expenditure by Seller;

(c) any change in, or any event, condition or state of facts of any character peculiar to the Acquired Assets, the Other Equipment or the Inventory or the operation of the Business that individually or in the aggregate adversely affects the Business, the Acquired Assets, the Other Equipment or the Inventory or that could affect the validity or enforceability of this Agreement;

(d) any destruction, damage or loss suffered by the Business or with respect to any item of the Acquired Assets or the Other Equipment (whether or not covered by insurance);

(e) any sale, lease or other disposition of any asset of the Business, including items that would otherwise be included as Acquired Assets or Other Equipment, other than in the ordinary course of business;

(f) any mortgage, pledge or other encumbrance of any item of the Acquired Assets, the Other Equipment or the Inventory;

(g) any breach of the terms of any Assumed Contract or any other contract or agreement that is material to the Business;

(h) any commencement, notice of commencement or threat of commencement of any litigation or any governmental proceeding against or investigation of Seller or the affairs of Seller;

(i) any liabilities that have not been disclosed to Buyer, other than those incurred in the ordinary course of business since December 31, 2005;

(j) any waiver or release of any right or claim of Seller;

(k) any labor trouble or claim of wrongful discharge or other unlawful labor practice or action;

(l) any change by Seller in accounting methods or principles applicable to the Business or the Acquired Assets that would be required to be disclosed under generally accepted accounting principles;

(m) any termination or amendment of any Assumed Contract, or any other contract, agreement, deed, mortgage, lease, license or other instrument to which Seller is bound or by which any of the Acquired Assets, the Other Equipment or the Inventory are bound or to which any of the Acquired Assets, the Other Equipment or the Inventory are subject other than in the ordinary course of business consistent with past practices;

(n) any entry into any commitment of any kind or the occurrence of any event giving rise to any contingent liability not covered by the foregoing that could have an adverse effect on the Acquired Assets or the Business; or

(o) any contract, commitment or agreement, oral or written, to do any of the foregoing.

2.11 Absence of Defaults

Seller is not in default, and no event has occurred which with notice or lapse of time or both would constitute a default, in any way under any term or provision of any agreement or instrument to which Seller is a party or by which Seller is bound that relates to or would affect

the Business or by or to which any of the Acquired Assets, the Other Equipment or the Inventory are bound or subject or that could adversely affect the ability of Seller to consummate the Acquisition.

2.12 Compliance with Laws

There has been no failure, in any material respect, by Seller to comply with any Law in any respect that could have an adverse effect on Buyer's ability to conduct normal operations of the Business with the Acquired Assets after the Closing or on the ability of Seller to consummate the Acquisition. In particular, the Burlington Facility complies in all material respects with current applicable Laws and Orders, including Laws and Orders with respect to Hazardous Materials or similar conditions on or about the Burlington Facility and the GE Field Sales Organization complies with current applicable Laws and Orders, including Laws and Orders with respect to federal export/import laws and order inducement.

2.13 Taxes; Tax Liens

With respect to the Business, the Acquired Assets, and the Other Equipment Seller has prepared and timely filed with the appropriate Governmental Body all Tax returns required to be filed on or before the Closing Date, and has paid any Taxes due therewith. There are no tax liens on any of the assets of the Business except for Liens for current taxes not yet due and payable. As used in this Agreement, "Tax" or "Taxes" means all income, gross receipts, sales, use, employment, franchise, profits, ad valorem, personal and real property, excise or other taxes, fees, stamp taxes and duties, assessments or charges of any kind whatsoever (whether payable directly or by withholding), together with all interest and all penalties, additions to tax or additional amounts imposed by any taxing or other authority with respect thereto.

2.14 Litigation

Except as listed on Schedule 2.14, there are no actions, claims, suits, investigations, inquiries or proceedings pending against Seller claiming in excess of \$100,000 related to the Business, the Acquired Assets or the Other Equipment or in rem against any of the Acquired Assets or the Other Equipment or, to the knowledge of Seller, after reasonable inquiry, threatened against Seller or in rem against any of the Acquired Assets or the Other Equipment at law or in equity, in any court, or before or by any Governmental Body. Seller is not in violation of any Order of any Governmental Body, the result of which violation individually or violations in the aggregate has had or could have an adverse effect on the Business or the Acquired Assets or the Other Equipment or could (i) affect the validity or enforceability of this Agreement or the documents contemplated to be executed by Seller, (ii) restrict the continuing transaction of business with the customers of the Business or (iii) establish a Lien against any of the Acquired Assets or the Other Equipment.

2.15 Customers and Suppliers

Schedule 2.15 lists the names, addresses and aggregate amount of purchases of all of the suppliers of the Business with in excess of \$50,000 of purchases by Seller by during calendar year 2005. Except as otherwise disclosed in Schedule 2.15, the relationships of Seller with its customers since January 1, 2003, and suppliers listed in Schedule 2.15 are, in the judgement of

Seller, generally satisfactory, based on the facts that: (i) Seller is not aware of any unresolved material disputes with any significant customers (with 2005 annual sales in excess of \$200,000) or listed suppliers, and (ii) since January 1, 2005 (except as otherwise disclosed), no such customer or supplier has notified in writing, Seller, any employee of Seller, or any agent or representative of Seller of its non-renewal, cancellation or termination of its business or professional relationship with Seller with respect to the Business or is currently threatening to do so. Except to the limited extent provided in Section 2.16(d) hereof, to enable Buyer to meet its manufacturing obligations under the Transition Services Agreement with respect to the Backlog Contracts, Seller has not shared or provided copies of Seller's customer lists with, nor transferred any customer files of the Business to, any person at any time before the Closing and shall not transfer copies of any such lists or files to any person after the Closing.

2.16 Contracts and Commitments

Schedule 2.16 contains a true and complete list (and Seller has previously delivered to Buyer true and complete copies, other than those contracts referenced in (d) below) of all of the following documents or agreements, or summaries of material oral agreements or understandings, relating to the Business, the Acquired Assets, the Other Equipment or the Inventory to which, on the date of this Agreement, Seller is a party, or which relate to or affect Seller and the Business, the Acquired Assets, the Other Equipment, the Inventory or the Acquisition and all documents or agreements which may require any action or consent in connection with the Acquisition, as they may have been amended to the date hereof. In addition to the foregoing, Seller has previously delivered, or will deliver within 30 days of the Closing Date, true and complete copies of the referenced contracts and commitments, other than (i) the partnership or joint venture agreements relating to the GE C&I China Affiliates otherwise required by (b) below, (ii) the Backlog Contracts referenced in subpart (d) below, which will be listed in a summary format including customer name, price, shop-order number, product description, non-standard terms, warranty provisions, delivery dates and delivery locations and (iii) where redactions in copies are required by applicable law or regulation as determined in good faith by mutual agreement of the parties:

(a) any agreement, contract or commitment with any party containing any covenant limiting the ability of Seller or the Business to engage in business or to compete in any location or with any person;

(b) any partnership or joint venture agreement with any party or any arrangements with any party with respect to the sharing of or in the profits or revenues of the Business or by Seller on behalf of the Business in such partnership or joint venture, including any licensing, technology transfer or royalty agreements;

(c) any agreement, contract or commitment relating to the future disposition or acquisition of any investment in any party or of any interest in any business enterprise involving the Business or the Acquired Assets, the Other Equipment or the Inventory;

(d) any contract or commitment for the sale or furnishing of materials, supplies, merchandise, equipment or services relating to the Backlog Contracts;

(e) any written agreement, instrument or other arrangement, or any unwritten agreement, contract, commitment or other arrangement, between or among Seller and any of the Affiliates of parties related to Seller or between or among business units of Seller;

(f) any contract which grants to any person a preferential or other right to purchase any of the Acquired Assets, the Other Equipment or the Inventory;

(g) any contract, agreement or commitment with respect to the discharge or removal of Hazardous Materials by or from the Acquired Assets, the Other Equipment or the Inventory.

(h) any confidentiality agreement with any person relating to a potential transaction for the sale of all or substantially all of the ownership interests or Acquired Assets or the Inventory, or with respect to a merger, reorganization or other business combination transaction involving Seller with such other person;

(i) any other agreement or instrument material to the Business, the Acquired Assets, the Other Equipment or the Inventory or not made in the ordinary course of business.

There is no course of dealing, waiver, arrangement, understanding or side letter or agreement applicable to any such contract of Seller.

2.17 Patents, Trademarks, Copyrights and Other Intellectual Property

Seller neither owns nor is a licensee or sublicensee of any patents, trademarks, copyrights, copyrightable works, servicemarks, trade dress, logos, trade names, corporate or business names, or applications therefor or registrations, renewals, translations, adaptations, derivations or combinations thereof, software, source code, object code, trade secrets, proprietary rights, inventions, URLs, confidential business information significant to the on-going operation of the Business or other intangible assets, or other Intellectual Property rights in any way pertaining to, related, identified to or with or otherwise currently in use (or has been used and currently could be used) only in Seller's operation of the Business, except for those listed on Schedule 2.17 and (i) such rights that are incorporated by the manufacturers into the Acquired Assets, without granting Seller any specified rights therein, and (ii) software license agreements and related contracts, pursuant to which the payment of all costs, fees and royalties have been duly and timely paid by Seller and no event of default has occurred thereunder and (iii) for the avoidance of doubt, any such Intellectual Property owned or being developed by the Global Research Center of General Electric Company except for such Intellectual Property that relates to the Business or the MV Market and could reasonably be anticipated to be available for commercial use within two years following the Closing Date. Seller has a current fully paid license for each copy of any software program installed on any computer or otherwise used by any employee of Seller in the Business or included in the Acquired Assets. There have been no claims made, and Seller has not received any notice and does not otherwise know or have reason to believe that the operation of the Business or any of the Acquired Assets is in conflict with the rights of others.

2.18 Insurance

Schedule 2.18 sets forth a true and complete list of all insurance policies of any kind or nature covering Seller with respect to the Business and the Acquired Assets, the Other Equipment and the Inventory, including policies of, fire, theft, employee fidelity, property and other casualty and liability insurance, and indicates the type of coverage, name of insured, the insurer, the expiration date of each policy and the amount of coverage. Schedule 2.18 also sets forth a list of any currently pending claims and any claims asserted under such policies or similar policies within the last three years with respect to the Business, the Acquired Assets, the Other Equipment or the Inventory. The premiums for the insurance policies listed in Schedule 2.18 have been fully paid. The insurance afforded under such policies or certificates is in full force and effect and will continue to cover Seller with respect to the Business and the Acquired Assets, the Other Equipment and the Inventory through the Closing and the term of the Transition Services Agreement. True and complete copies of each such policy have been made available to Buyer.

2.19 Employees

As of the Closing Date, Seller has not previously made, and will thereafter not make, any statement or communication of any kind regarding whether, or the terms and conditions upon which, any employee of Seller may be offered employment by Buyer. Seller has taken all necessary actions to comply with the federal Worker Adjustment and Retraining Notification Act and any similar state law (collectively, the “**WARN Act**”) through the Closing Date, to the extent it is subject to the WARN Act, and Buyer shall have no disclosure, announcement or other obligations under the WARN Act as a result of the transactions contemplated by this Agreement. There are no overt, or to Seller’s knowledge, pending activities or efforts of any labor union or organization (or representatives thereof) to organize any employees engaged in the Business, nor of any demands for recognition or collective bargaining relating to any strikes, demands, slowdowns, work stoppages or lock-outs of any kind, or overt threats thereof, by or with respect to any of its employees, or any actual or claimed representatives thereof, and no such activities, efforts, demands, strikes, slowdowns, work stoppages or lock-outs occurred during the three-year period preceding the date hereof. There are no charges or complaints involving any federal, state or local civil rights enforcement agency or court; letters from attorneys representing employees or former employees claiming any form of discrimination, wrongful discharge, tort or contract violation, complaints or citations under the Occupational Safety and Health Act or any state or local occupational safety act or regulation; unfair labor practice charges or complaints with the National Labor Relations Board; or other claims, charges, actions or controversies pending or, to Seller’s knowledge, threatened or proposed, involving Seller and any employee, former employee or any labor union or other organization representing or claiming to represent such employees’ interests. Seller is and has heretofore been in compliance in all material respects with all Laws respecting employment and employment practices, terms and conditions of employment and wages and hours, the sponsorship, maintenance, administration and operation of (or the participation of its employees in) employee benefit plans and arrangements and occupational safety and health programs, and Seller is not engaged in any violation of any Laws related to employment, including unfair labor practices or acts of employment discrimination, which could adversely affect the Business.

2.20 Environmental and Health and Safety Matters

(a) Except as set forth on Schedule 2.20(a), to the knowledge of Seller, Seller's operation, use and presence of ZNBV Equipment, the Other Equipment and the Inventory at its Burlington Facility on the Closing Date complies with all Environmental Laws applicable to that operation or use.

(b) Except as set forth on Schedule 2.20(b), to the knowledge of Seller, the ZNBV Equipment, the Other Equipment and the Inventory are free of any Hazardous Materials that would prevent Buyer from using the equipment in substantially the same manner as Seller has used the equipment at its Burlington Facility.

(c) For each hazardous chemical used in the Business for which during the thirty (30) days prior to the Closing Date Seller is required to maintain a Material Safety Data Sheet (MSDS) at the Burlington Facility to comply with the Occupation Safety and Health Administration's Hazardous Communication Standard contained in 29 CFR 1910.1200, Seller has provided to Buyer a copy of such MSDS.

(d) The following terms shall have the meaning ascribed for each below.

(i) **"Burlington Facility"** shall mean Seller's facility located at 501 East Agency Road, West Burlington, Iowa 52655.

(ii) **"Environmental Laws"** means any and all federal, state and local laws and regulations governing the protection of the environment, human health and safety, such as the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq., as amended; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as amended; the Clean Water Act, 33 U.S.C. §§ 1251 et seq., as amended; the Clean Air Act, 42 U.S.C. §§ 7401 et seq., as amended; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., as amended; the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., as amended; and the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq., as amended.

(iii) **"Hazardous Materials"** shall mean (i) asbestos or asbestos containing material, (ii) polychlorinated biphenyl's in concentrations greater than 50 parts per million, (iii) nuclear waste or materials, (iv) petroleum, crude oil or any fraction thereof, natural gas or synthetic gas used for fuel, and (v) any other substance or material, whether solid, liquid or gaseous, which at any time is classified, identified or defined as a hazardous or toxic substance or material under any Environmental Laws.

2.21 Quality of Products Manufactured

None of the product lines manufactured in the Business have manufacturing process defects or product defects. Except as set forth on Schedule 2.21, Seller has not issued any customer advisories or product recalls in the last five (5) years relating to products sold by the Business. All of the products manufactured in the Business and each of the manufacturing

processes utilized in the Business conform to applicable quality, functionality and safety requirements, including but not limited to all applicable regulatory and certification requirements. All work, including services, performed by Seller in the Business has been performed in all material respects in conformity with all applicable contractual commitments and all express and implied warranties. Seller has no liability (and to Seller's knowledge there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any of them giving rise to any liability) for replacement or repair thereof or other damages in connection therewith relating to the work performed as described in the preceding sentence.

2.22 Non-ANSI Products Manufactured at Burlington Facility

The Burlington Facility does not manufacture Non-ANSI products in the medium voltage circuit breaker or switchgear business. The Burlington Facility does ship ANSI products to the GE C&I China Affiliates for inclusion in Non-ANSI applications.

2.23 Brokers/Advisors

All negotiations with respect to this Agreement and the transactions contemplated hereby have been carried out by Seller directly with Buyer, without the intervention of any person on behalf of Seller in such manner as to give rise to any valid claim by any person against Buyer or Seller for a finder's fee, advisory fee, brokerage commission or similar payment, which Seller hereby acknowledges and agrees that it shall, to the extent any such claim is asserted against Buyer or Seller, be the sole responsibility of Seller, who shall promptly pay or otherwise satisfy any such claim.

2.24 Backlog

Seller does not account for the revenue it collects under the Backlog Contracts (each of which is listed on Schedule 2.24(a)) under the percentage-of-completion method of accounting. As of the Closing Date, none of the Backlog Contracts has, to Seller's knowledge, a Built-In Loss. A "**Built-In Loss**" shall mean that the total amount of revenue attributed to a particular Backlog Contract is less than the total amount of costs incurred and estimated to be incurred, inclusive of all direct and indirect overhead cost, under such Backlog Contract. Except for the Backlog Contracts and the associated customer orders identified with an asterisk on Schedule 2.24(a) (the "**Non-Standard Backlog Contracts**"), all of the Backlog Contracts have the terms and conditions set forth in Schedule 2.24(b). Seller will deliver Schedules 2.24(a) and 2.24(b) at the Closing, but, if necessary, may update Schedule 2.24(a) within five (5) days after the Closing to reflect a final listing as of the Effective Time. The parties will get together within thirty (30) days following the Closing Date to determine what level of information that Buyer will have access to for purposes of carrying out its responsibilities with respect to the Backlog Contracts.

2.25 Absence of Liabilities

There are no liabilities, contingent or definite, relative to the Business that have not been disclosed to Buyer.

* A confidential portion of material has been omitted and filed separately with the Commission

2.26 [*]

2.27 Disclosures

Each response by Seller by or through its officers, employees or other representatives to inquiries in connection with the due diligence performed by representatives of Buyer, as revised or updated by subsequent disclosures and this Agreement, was complete and accurate in all material respects. Copies of the most recent versions of all documents and other written information referred to herein or in the Schedules that have been delivered or made available to Buyer are true and complete copies thereof and include all amendments, supplements or modifications thereto or waivers thereunder. Such documents and other written information do not omit any material facts necessary, in light of the circumstances under which such information was furnished, to make the statements set forth therein not misleading. Except as expressly set forth in this Agreement and the Schedules or in the certificates or other documents delivered pursuant hereto, there are no other facts which will or may reasonably be expected to have any material adverse effect on the value of the Business or the Acquired Assets.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller that:

3.1 Organization and Good Standing

Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

3.2 Authority of Buyer

Buyer has all requisite corporate power and authority to enter into this Agreement and the other Transaction Documents to be executed by Buyer and to perform the obligations to be performed by Buyer hereunder and thereunder. The execution, delivery and compliance by Buyer with the terms of this Agreement and the other Transaction Documents to be executed by Buyer, and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate actions by Buyer. This Agreement has been duly executed and delivered by Buyer. This Agreement constitutes, and the other Transaction Documents to be executed by Buyer upon their execution and delivery as herein provided will constitute the legal, valid and binding obligations of Buyer, enforceable against the Buyer in accordance with their respective terms, subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to the effect of general principles of equity (regardless of whether enforcement is considered in a proceeding at law or in equity).

3.3 No Conflicts

The execution and delivery of this Agreement by Buyer, and the consummation of the transactions contemplated hereby, and the execution and delivery by Buyer of, and the consummation of the transactions contemplated by, the other Transaction Documents to be executed by Buyer, will not (a) violate or conflict with any existing term or provision of any Law or Order of any Governmental Body applicable to Buyer so as to materially and adversely affect the ability of Buyer to consummate the transactions contemplated hereby or thereby; (b) conflict with or result in a breach of or default under any of the terms, conditions or provisions of the articles of incorporation or bylaws of Buyer or any agreement or instrument to which Buyer is a party or by which Buyer or any of the assets or properties thereof may be bound or subject, where such breach or default may reasonably be expected to materially and adversely affect the ability of Buyer to consummate the transactions contemplated hereby or thereby; (c) result in the creation or imposition of any Lien upon the assets or properties of Buyer, where such Lien may reasonably be expected to materially and adversely affect the ability of Buyer to consummate the transactions contemplated hereby or thereby; (d) give to others any right of termination, cancellation, acceleration or modification in or with respect to any agreement or instrument to which Buyer is a party, or by which Buyer or any of the assets or properties thereof may be bound or subject, where such termination, cancellation, acceleration or modification of any such agreement or instrument may reasonably be expected to materially and adversely affect the ability of Buyer to consummate the transactions contemplated hereby; or (e) breach any fiduciary duty of Buyer to any person or entity, where such breach may reasonably be expected to materially and adversely affect the ability of Buyer to consummate the transactions contemplated hereby.

3.4 Consents and Approvals

The execution and delivery by Buyer of this Agreement and the other Transaction Documents to be executed by Buyer, compliance by Buyer with the terms hereof and thereof, and the consummation by Buyer of the transactions contemplated hereby and thereby, do not require Buyer to obtain any consent, approval or action of, or make any filing with or give any notice to (other than filings and press releases required under applicable securities laws) any corporation, person or firm or other entity or any Governmental Body, the failure to obtain which may reasonably be expected to materially and adversely affect the ability of Buyer to consummate the transactions contemplated hereby.

3.5 Brokers

All negotiations with respect to this Agreement and the transactions contemplated hereby have been carried out by Buyer and Buyer's authorized representative, Hayes Novus, directly with Seller without the intervention of any other person on behalf of Buyer in such manner as to give rise to any valid claim by any person against Seller for a finder's fee, brokerage commission or similar payment. Buyer is solely responsible for any fee payable to Hayes Novus.

3.6 Litigation

There are no actions, claims, suits, investigations, inquiries or proceedings pending against Buyer or, to the knowledge of Buyer, threatened against Buyer, at law or in equity, in any court, or before or by any Governmental Body which could reasonably be expected to materially and adversely affect the validity or enforceability of this Agreement or the documents contemplated hereby to be executed by Buyer and Buyer is not in violation of any Order of any Governmental Body, where such violation may reasonably be expected to materially and adversely affect the validity or enforceability of this Agreement.

ARTICLE 4 COVENANTS OF SELLER

Seller covenants and agrees with Buyer that:

4.1 Approvals

To the extent any approvals, authorizations or clearances of any Governmental Body have not been obtained on or before the date of this Agreement and are required or otherwise deemed by Buyer to be reasonably related to the conduct of the Business or ownership of the Acquired Assets, Seller shall cooperate with Buyer in obtaining, as promptly as possible, all such approvals, authorizations and clearances. Seller shall provide such other information and communications to Governmental Bodies, as such Governmental Bodies or Buyer may request and shall obtain the requisite consents of third parties required to complete the transactions contemplated hereby and, in particular, Seller shall provide Buyer (for no consideration) with such reasonable assistance as may be reasonably requested by Buyer to obtain any consents needed to assign the Acquired Assets and Assumed Contracts to Buyer. Notwithstanding any other language herein, Buyer shall not be required to make any payment or other concession or to assume any obligation (other than with respect to the terms and provisions of contracts expressly assumed hereunder that constitute Assumed Liabilities or Assumed Contracts) in connection with obtaining such consents.

4.2 Compliance with Legal Requirements

Seller shall comply promptly with all requirements which applicable Laws may impose on Seller or any of its Affiliates with respect to the transactions contemplated by this Agreement and will promptly cooperate with and furnish information to Buyer in connection with any such requirements imposed upon them in connection therewith.

4.3 Confidentiality

From and after the Closing Date, Seller shall not disclose directly or indirectly or allow any of its Affiliates to disclose directly or indirectly to third parties, nor will Seller use for its own benefit or the benefit of any third party or allow any of its Affiliates to use for their own benefit or the benefit of any third party, any trade secrets, supplier lists, business plans, projections, financial information, training manuals, product development plans, internal performance statistics, business secrets or other non-public information or data relating to the Business or the Acquired Assets, the Other Equipment or the Inventory or any information that

Seller has obtained from Buyer in connection with this Agreement with respect to Buyer or any of its Affiliates (the “**Confidential Information**”).

Notwithstanding the provisions of the preceding paragraph, the items in subparts (i) through (iv) shall not constitute either party’s Confidential Information and, in the case of subparts (v), (vi) and (vii), shall not constitute Buyer’s Confidential Information but shall constitute Seller’s Confidential Information:

(i) information that was, is or becomes generally available to the public other than as a result of a breach of this Section 4.3 or the Confidentiality Agreement;

(ii) information that is developed by either party or any of its Affiliates after the Closing Date independently of and without reference to any Confidential Information;

(iii) information that was, is or becomes available to either party or any of its Affiliates on a non-confidential basis from third party not bound by a confidentiality agreement or any legal, fiduciary or other obligation restricting disclosure;

(iv) information owned or supplied by Seller’s customers in the possession of Seller or its Affiliates;

(v) Seller’s information and data used to support the low voltage business of Seller, subject to the grant of rights afforded to Buyer under Section 1.7;

(vi) Seller’s shop order and as-built engineering information pertaining to the Installed Base; or

(vii) information and data in the possession of General Electric Company and its Affiliates, and including GE Energy’s engineering services unit, necessary to support the Installed Base, including shop order and as-built engineering information (and specifically excluding the generic design, design drawings, design certification and design test verification data acquired by Buyer); provided that, with respect to (iv), (vi) and (vii) above, Buyer shall have a right of use under Section 1.7, except such right of use shall not apply to the extent such information and data is owned by, or subject to a confidentiality requirement existing on the Closing Date that was imposed by a third party.

Seller shall provide Buyer access to the information set forth in (iv), (vi) and (vii) above at reasonable times and at Seller’s expense to facilitate Buyer’s manufacturing and service operations. Buyer shall provide Seller, at reasonable times and at Buyer’s expense, access to the generic design, design drawings, design certification and design testing verification data solely for the purpose of warranty and claims investigation and analysis relating to the Installed Base. With respect to both Seller and Buyer, access to the other party for a valid business purpose consistent with the Transaction Documents will not be unreasonably withheld; provided that, with regard to Seller, such access shall be limited to purposes of dealing with the Installed Base. Buyer understands and agrees that the as-built customer information has its foundation in Buyer’s design information. Buyer does not intend to limit Seller’s use of the as-built customer information as a result of its ownership of the design information.

* A confidential portion of material has been omitted and filed separately with the Commission

If Seller becomes compelled in any legal proceeding or is requested by a Governmental Body having regulatory jurisdiction over the Acquisition to make any disclosure that is prohibited or otherwise constrained by this Section 4.3, Seller shall provide Buyer with prompt notice of such compulsion or request so that it may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of this Section 4.3. In the absence of a protective order or other remedy, Seller may disclose that portion (and only that portion) of the Confidential Information that, based upon advice of Seller's counsel, Seller is legally compelled to disclose or that has been requested by such Governmental Body; *provided, however*; that Seller shall use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded by any Person to whom any Confidential Information is so disclosed. The provisions of this Section 4.3 do not apply to any legal proceedings between the parties to this Agreement.

4.4 Required Financial Statements

Seller shall cooperate with Buyer, including by providing access to information, appropriate responses and representation letters to auditors, in connection with Seller's preparation of such carve-out audited and unaudited balance sheets, income statements, statements of cash flow and other financial statements or schedules with respect to the Business for such fiscal years and interim periods as may be determined by Buyer, upon the advice of its counsel and independent public accountant, to be required by the rules and regulations of the Securities and Exchange Commission in connection with filings that may be made or may be required to be made by Buyer under the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, and any related rules, regulations or state statutes, rules or regulations. In that regard, Seller will so cooperate in the audit in process of the carve-out financial statements with respect to the Business, as of and for the period ended December 31, 2005 that are prepared in accordance with accounting principles suitable for, and audited as required for, filings with the Securities and Exchange Commission, such that such audited financial statements are received as soon as possible, but in any event, prior to 45 days following the Effective Time.

4.5 Employee Matters

Seller and Buyer acknowledge and agree that Buyer is not offering, and does not intend to offer, employment to any of Seller's employees, either under the terms of this Agreement or any of the other Transaction Documents, and all such employees shall remain the sole employees of Seller and under Seller's sole and exclusive control. While it is contemplated in the Transition Services Agreement that employees of Buyer and Seller will coordinate to accomplish the purposes under such agreement, nothing contained in this Agreement or the other Transaction Documents shall authorize Buyer to direct or control, in any respect, the activities of any of Seller's employees. Buyer shall have no obligation for payment of any salaries, compensation, benefits or other amounts of Seller's employees, and Seller shall defend and indemnify Buyer from any claims asserted by such employees.

4.6 [*] Nonsolicitation.

(a) [*]

* A confidential portion of material has been omitted and filed separately with the Commission

(b) [*] Seller nor any Seller Affiliate shall except as expressly permitted by Section 4.6(c) below:

(i) Neither Buyer nor Seller shall directly or indirectly solicit or induce any third party sales representative that has a business relationship with the Business, or the other Party or any of its Affiliates in the MV Market to discontinue such existing relationship in the MV Market;

(ii) Seller shall not, for a period of four (4) years after the Closing Date, directly or indirectly recruit, solicit or influence any employee of Buyer or any of Buyer's Affiliates to discontinue such employment relationship, except for general solicitations such as job fairs, print or media advertising, etc. or direct unsolicited inquiries by such employees; or;

(iii) neither party shall directly or indirectly denigrate or in any manner undertake to discredit or disparage the other party or, as may be applicable, any Affiliate of such other party or any successor thereof or any person, operation or entity associated with the transactions contemplated by this Agreement.

(c) [*]

(d) [*]

(e) [*]

(f) [*]

(g) [*]

4.7 No Trading in Parent Securities

Seller shall not, and shall instruct its respective employees, officers, directors, representatives and agents having knowledge of the transactions contemplated under this Agreement not to, directly or indirectly purchase, sell or in any way trade in the securities (including without limitation common stock, options or other derivatives) of Buyer from the date of the Closing until five (5) business days following the date of the public announcement of the Closing. In addition, Seller shall, and shall instruct its respective employees, officers, directors, representatives and agents engaged in any of the actions required by this Agreement and the Powell Supply Agreement to, comply with all requirements of Buyer's insider trading policy during the term of the Powell Supply Agreement.

4.8 WARN Act

Seller will take all necessary actions to comply with the WARN Act through the term of the Transition Services Agreement.

4.9 Access to Burlington Facility

Seller will permit access to the Burlington Facility to any and all employees, representatives and agents of Buyer to carry out the intent and purposes of this Agreement and the other Transaction Documents; provided such Buyer employees, representatives and agents comply with all safety, security and other requirements and restrictions generally applicable to visitors to the Burlington Facility.

4.10 Post-Closing Deliveries by Seller

Within one hundred eighty (180) days after Closing (or sooner if reasonably needed by Buyer), Buyer will deliver to Seller originals or copies, if originals are unavailable, of all documentation, of whatever type, from wherever located, that constitute part of the Acquired Assets and any other documentation required hereunder and expressly permitted by Buyer to be delivered after the Closing Date (that does not have some earlier required delivery date after the Closing Date), other than that documentation which Buyer and Seller expressly agree may be retained by Seller for use during the term of the Transition Services Agreement.

4.11 No Sale of Other Equipment or Inventions

Without the consent of Buyer, for two (2) years following the Closing Date, Seller will not sell or otherwise dispose of any items of Other Equipment other than pursuant to Section 1.5 and shall not sell or dispose of Inventory other than to perform under the Transition Services Agreement or pursuant to Section 1.6 or otherwise discarded in the ordinary course of business.

ARTICLE 5 COVENANTS OF BUYER

5.1 Cooperation with Governmental Bodies

To the extent any approvals, authorizations or clearances of any Governmental Body have not been obtained on or before the date of this Agreement and are required or otherwise deemed by Buyer to be reasonably related to the conduct of the Business or ownership of the Acquired Assets, Buyer covenants and agrees with Seller that Buyer shall cooperate with Seller in obtaining, as promptly as possible, all such approvals, authorizations and clearances. Buyer shall provide such other information and communications to Governmental Bodies as such Governmental Bodies or Seller may reasonably request and shall use reasonable commercial efforts to obtain any requisite consents of third parties, to the extent required to consummate the transactions contemplated hereby; provided that no payment or other concessions are required of Buyer to obtain such consents.

ARTICLE 6 DELIVERIES BY SELLER AT CLOSING

Except as may be waived in writing by Buyer, Seller shall deliver to Buyer at Closing:

6.1 Consents, Authorizations, etc.

Evidence reasonably satisfactory to Buyer that all orders, consents, permits, authorizations, approvals and waivers of every Governmental Body or third party required for the consummation of the Acquisition, including for the assignment of the Assumed Contracts have been obtained or given.

6.2 Corporate Matters

A certificate of Attesting Secretary of Seller certifying as of the Closing Date (a) the attached copies of the resolutions of the board of directors of Seller, authorizing the Acquisition and the execution, delivery and performance by Seller of this Agreement and the other Transaction Documents that are in full force and effect, (b) the attached copies of Seller's articles of incorporation and bylaws and (c) the incumbency and signatures of the officers executing this Agreement and any Transaction Document.

6.3 Bill of Sale and Assignment

A counterpart of a Bill of Sale and Assignment executed by Seller assigning the Acquired Assets in substantially the form of Appendix 6.3 attached hereto.

6.4 Powell Supply Agreement

A counterpart of the Powell Supply Agreement duly executed by Seller in substantially the form of Appendix 6.4 attached hereto.

6.5 GE Supply Agreement

A counterpart of the GE Supply Agreement, duly executed by Seller, in substantially the form of Appendix 6.5 attached hereto.

6.6 Transition Services Agreement

A counterpart of the Transition Services Agreement duly executed by Seller in substantially the form of Appendix 6.6 attached hereto.

6.7 Opinion of Counsel

An opinion, addressed to Buyer and dated the Closing Date, of counsel for Seller, in substantially the form set forth on Appendix 6.7 attached hereto.

6.8 Option Agreement

A counterpart of the Option Agreement For a Technology License and Equipment Purchase, duly executed by Seller in substantially the form of Appendix 6.8 attached hereto.

6.9 Creditor Releases

Subject only to the assumption or payment of the Assumed Liabilities, evidence reasonably satisfactory to Buyer that all Liens on the Acquired Assets held by Seller's creditors have been released and that all required consents of any person or entity to the conveyance of the Acquired Assets to Buyer have been obtained.

6.10 Physical Possession and Control

Effective physical possession, access to and control of the Acquired Assets subject to licensed rights for Seller to continue to use the Acquired Assets during the term of the Transition Services Agreement.

6.11 Other Requested Documents

Further instruments and documents, in form and content reasonably satisfactory to counsel for Buyer, as may be necessary or reasonably appropriate more fully to consummate the Acquisition.

ARTICLE 7 DELIVERIES BY BUYER AT CLOSING

Except as may be waived in writing by Seller, Buyer shall deliver to Seller at Closing:

7.1 Purchase Price

The cash payment of the First Installment of the Purchase Price as contemplated in Section 1.4 by wire transfer to an account or accounts specified in advance by Seller.

7.2 Corporate Matters

A certificate of secretary of Buyer certifying as of the Closing Date (a) the attached copies of the resolutions of the board of directors of Buyer authorizing the Acquisition and the execution, delivery and performance by Buyer of this Agreement and the other Transaction Documents that are in full force and effect, (b) the attached copies of Buyer's certificate of incorporation and bylaws and (c) the incumbency and signature of the officers executing this Agreement and any other Transaction Document.

7.3 Bill of Sale and Assignment

A counterpart of a Bill of Sale and Assignment executed by Buyer in substantially the form of Appendix 6.3 attached hereto.

7.4 Powell Supply Agreement

A counterpart of the Powell Supply Agreement duly executed by Buyer is substantially the form of Appendix 6.4 attached hereto.

7.5 GE Supply Agreement

A counterpart of the GE Supply Agreement, duly executed by Buyer, in substantially the form of Appendix 6.5 attached hereto.

7.6 Transition Services Agreement

A counterpart of the Transition Services Agreement duly executed by Buyer is substantially the form of Appendix 6.6 attached hereto.

7.7 Option Agreement

A counterpart of the Option Agreement For a Technology License and Equipment Purchase, duly executed by Buyer in substantially the form of Appendix 6.9 attached hereto.

ARTICLE 8 SURVIVAL OF REPRESENTATIONS AND WARRANTIES

Any claim made by either party (the “**Claiming Party**”) for breach of any of the respective representations, warranties, covenants, commitments or any other obligations of, or made by, the other party to this Agreement or in any certificate or document executed and delivered by the other party to the Claiming Party pursuant to this Agreement (other than, with respect to each Party, the Powell Supply Agreement, GE Supply Agreement or Transition Services Agreement or Option Agreement for a Technology License and Equipment Purchase) or for indemnification shall be made in accordance with the notice provisions of **ARTICLE 10** below, and must be delivered in writing by the Claiming Party within twenty-four (24) months after the Closing Date. Any claims not so made within the said twenty-four (24) month period after the Closing Date shall be null and void and of no force or effect. Each party’s total liability on any and all of any such claims shall be subject to, and limited by, those amounts set forth in Section 0 below. The Claiming Party may assert such claims regardless of any investigation made by the Parties hereto. The limitations in this Article shall not apply to the obligations that are included in the Powell Supply Agreement, GE Supply Agreement, Transition Services Agreement or Option Agreement for a Technology License and Equipment Purchase.

8.1 Indemnification of Buyer Indemnitees

Subject to the terms of Section 0 below, Seller hereby agrees to indemnify and hold the Buyer Indemnitees harmless from and against:

- (a) any and all Adverse Consequences resulting from any misrepresentation, breach of representation or warranty or nonfulfillment of any covenant or agreement on the part of Seller under the terms of this Agreement;
- (b) any and all Adverse Consequences related to or arising from the Excluded Liabilities and the Excluded Assets;
- (c) any and all Adverse Consequences arising as a result of the ownership of the Business, the Acquired Assets or the use and operation of the Business and the

Acquired Assets on or before the Closing Date, including, but not limited to, with respect to any employee benefits or other employee-related matters but excluding Assumed Liabilities; and

(d) any Taxes imposed for any taxable period ending on or before the Closing Date with respect to the Business or the Acquired Assets.

(e) any amount by which the Gross Margin in the audited financial statements for the period ended December 31, 2005, as required by Section 4.4, shall be less than the Gross Margin in the Income Statement attached as Schedule 2.8.

8.2 Indemnification of Seller Indemnitees

Subject to the terms of Section 0 below, Buyer agrees to indemnify and hold Seller Indemnitees harmless from and against:

(a) any and all Adverse Consequences resulting from any misrepresentation, breach of representation or warranty or non-fulfillment of any covenant or agreement on the part of Buyer under the terms of this Agreement;

(b) any and all Adverse Consequences arising as a result of Buyer's failure to discharge and perform the Assumed Liabilities or to perform the obligations of the Assumed Contracts following the Closing;

(c) any and all Adverse Consequences arising as a result of the ownership of the Acquired Assets or the use and operation of the Acquired Assets from and after the Closing Date, other than the Excluded Liabilities; and

(d) any Taxes imposed for taxable periods beginning after the Closing Date with respect to the Business or the Acquired Assets.

8.3 Method of Asserting Claims, etc.

The items listed in Section 8.1 and Section 8.2 are sometimes collectively referred to herein as "**Damages**"; provided that such reference shall be understood to mean the respective damages from and against which Buyer and its Affiliates and their respective subsidiaries, officers, directors, shareholders, agents and attorneys (the "**Buyer Indemnitees**") or Seller and its officers, directors, agents and attorneys (the "**Seller Indemnitees**"), as the case may be, are indemnified as the context requires. The person claiming indemnification hereunder, whether a Buyer Indemnitee or Seller Indemnitee, is sometimes referred to as the "**Indemnified Party**" and the party against whom such claims are asserted hereunder is sometimes referred to as the "**Indemnifying Party**". All claims for indemnification by an Indemnified Party under Section 8.1 or Section 8.2 hereof, as the case may be, shall be asserted and resolved as follows:

(a) If any claim or demand for which an Indemnifying Party would be liable for Damages to an Indemnified Party hereunder is overtly asserted against or sought to be collected from such Indemnified Party by a third party (a "**Third Party Claim**"), such Indemnified Party shall with reasonable promptness (but in no event later than ten (10)

days after the Third Party Claim is so asserted or sought against the Indemnified Party) notify in writing the Indemnifying Party of such Third Party Claim enclosing a copy of all papers served, if any, and specifying the nature of and specific basis for such Third Party Claim and the amount or the estimated amount thereof to the extent then feasible, which estimate shall not be conclusive of the final amount of such Third Party Claim (the “**Claim Notice**”). For this purpose the commencement of any audit or other investigation respecting Taxes shall constitute a Third Party Claim. Notwithstanding the foregoing, failure to so provide a Claim Notice as provided above shall not relieve the Indemnifying Party from its obligation to indemnify the Indemnified Party with respect to any such Third Party Claim except to the extent that a failure to so notify the Indemnifying Party in reasonably sufficient time prejudices the Indemnifying Party’s ability to defend against the Third Party Claim. The Indemnifying Party shall have thirty days from delivery of the Claim Notice (the “**Notice Period**”) to notify the Indemnified Party (i) whether or not the Indemnifying Party disputes the liability of the Indemnifying Party to the Indemnified Party hereunder with respect to such Third Party Claim and (ii) whether or not the Indemnifying Party desires, at the sole cost and expense of the Indemnifying Party, to defend the Indemnified Party against such Third Party Claim.

(b) If the Indemnifying Party notifies the Indemnified Party within the Notice Period that the Indemnifying Party does not dispute its liability to the Indemnified Party and that the Indemnifying Party desires to defend the Indemnified Party with respect to the Third Party Claim pursuant to this ARTICLE 8, then the Indemnifying Party shall have the right to defend, at its sole cost and expense, such Third Party Claim by all appropriate proceedings, which proceedings shall be diligently prosecuted by the Indemnifying Party to a final conclusion or settled at the discretion of the Indemnifying Party (but only if the Indemnifying Party is liable hereunder to the Indemnified Party for the full amount of, and all obligations under, such settlement; otherwise, no such settlement shall be agreed to without the prior written consent of the Indemnified Party). If the Indemnifying Party is liable hereunder to the Indemnified Party for the full amount of such Third Party Claim, the Indemnifying Party shall have full control of such defense and proceedings, including any compromise or settlement thereof; *provided, however, that* the Indemnified Party is hereby authorized, at the sole cost and expense of the Indemnifying Party (but only if the Indemnified Party is actually entitled to indemnification hereunder or if the Indemnifying Party assumes the defense with respect to the Third Party Claim as permitted hereunder), to file during the Notice Period any motion, answer or other pleadings which the Indemnified Party shall deem necessary or appropriate to protect its interests or those of the Indemnifying Party and not prejudicial to the Indemnifying Party (it being understood and agreed that if an Indemnified Party takes any such action which is prejudicial and conclusively causes a final adjudication which is adverse to the Indemnifying Party, the Indemnifying Party shall be relieved of its obligations hereunder with respect to such Third Party Claim); and provided further that if requested by the Indemnifying Party, the Indemnified Party agrees, at the sole cost and expense of the Indemnifying Party, to cooperate with the Indemnifying Party and its counsel in contesting any Third Party Claim which the Indemnifying Party elects to contest, or, if appropriate and related to the Third Party Claim in question, in making any counterclaim against the person asserting the Third Party Claim, or any cross-complaint against any person. The Indemnified Party may participate in, but not control (except if

the Indemnifying Party is not liable hereunder to the Indemnified Party for the full amount of such Third Party Claim, in which case whichever of the Indemnifying Party or the Indemnified Party is liable for the largest amount of Damages with respect to the Third Party Claim shall control), any defense or settlement of any Third Party Claim with respect to which the Indemnifying Party is participating pursuant to this Section 8.3(b), and except as provided in the preceding sentence, the Indemnified Party shall bear its own costs and expenses with respect to such participation.

(c) If the Indemnifying Party fails to notify the Indemnified Party within the Notice Period that the Indemnifying Party does not dispute its liability to the Indemnified Party and that the Indemnifying Party desires to defend the Indemnified Party pursuant to this ARTICLE 8, then the Indemnified Party shall have the right to defend, at the sole cost and expense of the Indemnifying Party, the Third Party Claim by all appropriate proceedings, which proceedings shall be promptly and vigorously prosecuted by the Indemnified Party to a final conclusion or settled. The Indemnified Party shall have full control of such defense and proceedings, including any compromise or settlement thereof; *provided, however, that* if requested by the Indemnified Party, the Indemnifying Party agrees, at the sole cost and expense of the Indemnifying Party, to cooperate with the Indemnified Party and its counsel in contesting any Third Party Claim which the Indemnified Party is contesting, or, if appropriate and related to the Third Party Claim in question, in making any counterclaim against the person asserting the Third Party Claim, or any cross-complaint against any person. Notwithstanding the foregoing provisions of this Section 8.3(c), if the Indemnifying Party has timely notified the Indemnified Party that the Indemnifying Party disputes its liability to the Indemnified Party and if such dispute is resolved in favor of the Indemnifying Party by final, non-appealable order of a court of competent jurisdiction, the Indemnifying Party shall not be required to bear the costs and expenses of the Indemnified Party's defense pursuant to this Section 8.3(c) or of the Indemnifying Party's participation therein at the Indemnified Party's request and the Indemnified Party shall reimburse the Indemnifying Party in full for all costs and expenses of such litigation. The Indemnifying Party may participate in, but not control, any defense or settlement controlled by the Indemnified Party pursuant to this Section 8.3(c) (other than a dispute as to the Indemnifying Party's liability to the Indemnified Party) and the Indemnifying Party shall bear its own costs and expenses with respect to such participation.

(d) If any Indemnified Party should have a claim against any Indemnifying Party hereunder which does not involve a Third Party Claim, the Indemnified Party shall notify the Indemnifying Party of such claim by the Indemnified Party, specifying the nature of and specific basis for such claim and the amount of the estimated amount of such claim (the "**Indemnity Notice**"). If the Indemnifying Party does not notify the Indemnified Party within thirty days from delivery of the Indemnity Notice that the Indemnifying Party disputes such claim, the amount or estimated amount of such claim as specified by the Indemnified Party shall be conclusively deemed a liability of the Indemnifying Party. If the Indemnifying Party has timely disputed such claim, as provided above, such dispute shall be resolved under the arbitration provisions under ARTICLE 9 of this Agreement.

* A confidential portion of material has been omitted and filed separately with the Commission

8.4 Payment of Indemnity, Basket and Liability Limitations

Notwithstanding anything to the contrary contained in this ARTICLE 8, an Indemnifying Party shall not be subject to any liability for indemnification under this ARTICLE 8 or for any claim pursuant to Section 8.1 and 8.2 above, absent fraud and willful misconduct, until all Damages of the Indemnified Party exceed a [*] aggregate threshold (the “**Basket**”), at which point the Indemnifying Party shall be obligated to indemnify the Indemnified Party from and against all Damages from the first dollar thereof for an aggregate amount up to but not to exceed [*]; provided that each individual claim within and above the Basket shall be for at least [*]. All indemnity claims shall be paid in cash. Buyer shall not be authorized to, and shall not, withhold any amounts from any installment of the Purchase Price in offset of any indemnities it may be due under this Agreement.

8.5 Adverse Consequences

As used in this Agreement, the term “**Adverse Consequences**” shall mean actions, claims, suits, debts, liabilities, obligations, losses, costs, deficiencies, penalties, fines, expenses and other judgments (at law or in equity) and damages whenever arising or incurred, including amounts paid in settlement and reasonable attorneys’ fees and expenses.

ARTICLE 9 ARBITRATION

9.1 Initiation of Arbitration

Any dispute or difference arising under this Agreement shall be decided by arbitration in accordance with this Section. Any such arbitration shall be conducted expeditiously and confidentially in accordance with the commercial Arbitration Rules of the Judicial Arbitration and Mediation Service (“**JAMS**”) as such rules shall be in effect on the date of delivery of demand for arbitration. Any such arbitration shall be heard and conducted in Fulton County, Georgia. Notwithstanding the rules of the JAMS or as otherwise provided in this Agreement, the arbitration panel in any such arbitration shall consist of three persons who must be retired state or federal judges and shall have the authority to retain such experts in the Service Contract Business as they deem necessary. Within twenty (20) days of delivery of any demand for arbitration hereunder, the party or parties demanding arbitration shall appoint one arbitrator, the party or parties responding to the arbitration demand shall appoint one arbitrator and the two arbitrators so selected shall appoint the third arbitrator within twenty (20) days of their appointment. If the two selected arbitrators are unable to agree upon the selection of a third arbitrator after reasonable efforts, a panel of seven qualified persons shall be requested from the JAMS. The parties shall alternatively and successively strike one person at a time, from such list; and the last remaining person on such list shall be the third designated arbitrator. Once appointed, the arbitrators shall permit the parties to engage in such reasonable discovery as is requested and required. Each party to the arbitration proceedings shall be given a copy of all information submitted to the arbitrators and shall be given a reasonable opportunity to respond to such information. Unless otherwise provided in this Agreement, each party shall pay the fees of its own attorneys, expenses of witnesses and all other expenses connected with the presentation of such party’s case in arbitration; *provided, however, that* the ultimate costs of any arbitration,

* A confidential portion of material has been omitted and filed separately with the Commission

including the cost of the record or transcripts thereof, if any, administrative fees, arbitrators' costs and arbitration fees, and all other fees involved, including reasonable attorney's and expert's fees, shall be borne by the parties in the manner established by the arbitrators. The arbitrators shall be required to render their decision within thirty (30) days after the parties have finished presenting the controversy to them. Temporary injunctive or other similar temporary equitable relief may be sought and obtained pending the arbitration of any matter pursuant to this Agreement.

9.2 Decision

The arbitrators shall consider customary and standard practices in the Business, and shall decide the issues presented to them by a majority vote of the arbitrators. All conclusions of law reached by the arbitrators shall be made in accordance with the internal substantive laws of the State of New York without regard to conflict of laws principles. Any award rendered by the arbitrators shall be accompanied by a written opinion setting forth the findings of fact and conclusions of law relied upon in reaching their decision. Any decision made by the arbitrators shall be final and binding on the parties and there shall be no appeal from the written decision of the arbitrators; judgment may be entered on the decision of the arbitrators by any court having jurisdiction.

9.3 Confidentiality

The parties agree that the existence, conduct and content of any arbitration shall be kept strictly confidential and no party shall disclose to any person any information about such arbitration, except as may be required by law or for financial reporting purposes in each party's financial statements.

9.4 Survival

The provisions contained in this Article shall survive termination of this Agreement.

ARTICLE 10 NOTICES

All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly received, if so given) by personal delivery, telegram, teletype, or telex, or by registered or certified mail, postage prepaid, return receipt requested, to the parties at the following addresses:

If to Seller, to:

General Electric Company
Chief Executive Officer
GE Consumer & Industrial Products
Appliance Park, Bldg. 35
Louisville, KY 40225
Fax: [*]

* A confidential portion of material has been omitted and filed separately with the Commission

With a copy to:

General Counsel
GE Consumer Products
Appliance Park, Bldg. 2
Louisville, KY 40225
Fax: [*]

If to Buyer, to:

Powell Industries, Inc.
8550 Mosley Drive
Houston, Texas 77075
Attention: Chief Financial Officer
Telephone: [*]
Facsimile: [*]

With a copy (which shall not constitute notice) to:

[*]
Winstead Sechrest & Minick P.C.
919 Milam Street, Suite 2400
Houston, Texas 77002
Telephone: [*]
Facsimile: [*]

Any party from time to time may change its address for the purpose of notices to that party by giving a similar notice specifying a new address, but no such notice shall be deemed to have been given until it is actually received by the party sought to be charged with the contents.

ARTICLE 11 GENERAL

11.1 Usage of Terms

In this Agreement, unless a clear intention to the contrary appears:

- (a) the singular number includes the plural and vice versa;
- (b) reference to any person includes such person's successors and assigns, to the extent such successors and assigns are not prohibited by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually;
- (c) reference to any gender includes each other gender;

* A confidential portion of material has been omitted and filed separately with the Commission

(d) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;

(e) reference to any Law means such Law as amended, modified, codified, replace or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Law means that provision of such Law from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;

(f) reference to the knowledge of Seller includes the knowledge of any officer of Seller or other employee employed by Seller in a management position with respect to the Business and the operation of the Acquired Assets and in any event [*];

(g) “hereunder,” “hereof,” “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision hereof;

(h) “including” means including without limiting the generality of any description preceding such term;

(i) “or” is used in the inclusive sense of “and/or”;

(j) with respect to any determination of any period of time, “from” means “from and including” and “to” means “to but excluding”;

(k) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto; and

(l) unless otherwise specified herein, all accounting terms used herein shall be interpreted and all accounting determinations hereunder shall be made in accordance with generally accepted accounting principles for financial reporting in the United States of America.

11.2 Legal Representation of the Parties

This Agreement was negotiated by the parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to any construction or interpretation hereof.

11.3 Entire Agreement

This Agreement, along with the other Transaction Documents and their Schedules and Exhibits (but excluding the Appendices to this Agreement), constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof, including any agreements and understandings, whether oral or written, between Seller or any of its Affiliates and Buyer or any of its Affiliates, including

any of GE's operating components or divisions whether domestic or foreign, except that any existing supply or sales agreements between Buyer and GE (other than GE Consumer & Industrial and any GE C&I Affiliates) shall remain in full force and effect.

11.4 Waiver

Any term or condition of this Agreement may be waived at any time by the party which is entitled to the benefit thereof; such waiver shall be in writing and shall be executed by the chairman, president or a vice president thereof. A waiver on one occasion shall not be deemed to be a waiver of the same or any other matter on a future occasion.

11.5 Amendment

This Agreement may be modified or amended only by a writing duly executed by or on behalf of each of the parties hereto.

11.6 Counterparts

This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

11.7 Headings

The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

11.8 Governing Law

Except as otherwise provided herein, this Agreement and all rights and obligations hereunder, including matters of construction, validity and performance shall be governed by the laws of the State of New York without giving effect to the principles of conflicts of laws thereof.

11.9 Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; *provided, however*, that this Agreement or any right or part hereunder shall not be voluntarily assigned by either party hereto without the prior written consent of the other party hereto, except that Buyer may assign its rights and obligations hereunder to a wholly owned, direct or indirect, subsidiary of Buyer.

11.10 Expenses

Seller shall pay its own legal and other professional expenses incurred in connection with the Letter, this Agreement and the transactions contemplated hereby, including the expenses of legal counsel and accountants engaged by them and other expenses incurred by Seller in connection herewith and not expressly allocated hereunder. Buyer shall be responsible for expenses of legal counsel engaged by Buyer, the expenses of its advisors, the expenses of its due

diligence review and other expenses incurred by Buyer in connection herewith and not expressly allocated hereunder.

11.11 Further Assurances

Seller, on the one hand, and Buyer, on the other hand, at any time after the Closing Date, will promptly execute, acknowledge and deliver any further deeds, assignments, conveyances and other assurances, documents and instruments of transfer, reasonably requested by the other party and necessary to comply with the representations, warranties and covenants contained herein and will take any action consistent with the terms of this Agreement that may reasonably be requested by the other party for the purpose of assigning, transferring, granting, conveying, vesting and confirming ownership in or to Buyer, or reducing to Buyer's possession, any or all of the Acquired Assets or effecting the assumption of the Assumed Liabilities.

11.12 No Third Party Beneficiary

Any agreement to perform any obligation or pay any amount and any assumption of any obligation herein contained, express or implied, shall be only for the benefit of the parties hereto and their respective successors and permitted assigns as expressly permitted in this Agreement, and such agreements and assumptions shall not inure to the benefit of any obligee, whomever, it being the intention of the undersigned that no one shall be or be deemed to be a third party beneficiary of this Agreement other than parties that may have a right to indemnification under this Agreement.

11.13 Tax Matters

(a) Seller and Buyer shall furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Business (including access to books and records as well as the timely provision of powers of attorney or similar authorizations) as is reasonable necessary for the filing of all Tax returns, the making of any election related to Taxes, the preparation for any audit by any Governmental Authority, and the prosecution or defense of any audit proposed adjustment or deficiency, assessment, claim, suit or other proceeding relating to any Taxes or Tax return. Seller and the Buyer shall cooperate with each other in the conduct of any audit or other proceeding related to Taxes and all other Tax matters relating to the Business and each shall execute and deliver such powers of attorney and other documents as are necessary to carry out the intent of this Agreement. The party requesting cooperation under this section shall reimburse the other party for any actual out-of-pocket expenses incurred in furnishing such cooperation.

(b) Seller and Buyer shall report to the other any written communication from or with the Internal Revenue Service or any other foreign, state or local Governmental Authority that relates in any way to the characterization of the transactions undertaken pursuant to the Purchase Agreement or any related transaction.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

BUYER:

POWELL INDUSTRIES, INC.

By: /s/ Don R. Madison

Don R. Madison

Vice President and Chief Financial Officer

SELLER:

GENERAL ELECTRIC COMPANY

By: /s/ James P. Campbell

Name: James P. Campbell

Title: President & CEO, GE Consumer & Industrial

**Signature Page to Powell Industries, Inc.
Asset Purchase Agreement**

SCHEDULE A — DEFINITIONS

"**Acquired Assets**" shall have the meaning set forth in Section 1.1.

"**Acquired Business**" shall have the meaning set forth in Section 4.6(d)

"**Acquired Entity**" shall have the meaning set forth in Section 4.6(d).

"**Acquisition**" shall have the meaning set forth in the Recitals of this Agreement.

"**Adverse Consequences**" shall have the meaning set forth in Section 8.5.

"**Affiliate**" means and refers to any entity or entities that directly or indirectly control, are controlled by or are under common control with such referenced entity.

"**Agreement**" shall have the meaning set forth in the Preamble to this Agreement.

"**ANSI Medium Voltage Switchgear and Circuit Breakers**" means American National Standard Institute compliant metal-clad switchgear which comprises an integrated assembly of vacuum circuit breakers, voltage and current instrument transformers, power bus, control components, and protective devices coordinated electrically and mechanically for the distribution of electrical energy and the protection of electrical systems and connected loads. The vacuum circuit breakers have voltage ratings from 1,000 Volts to 69,000 Volts, current ratings from 1,000 Amperes to 6,000 Amperes and interrupting ratings from 25,000 Amperes to 63,000 Amperes and a mechanical operating mechanism design to separate power contacts and break the electrical circuit in 5 cycles or less after a trip signal is received, and shall expressly not include, by way of example and not limitation and for the avoidance of doubt, ANSI medium voltage motor control centers and ANSI load interrupt switches, non-ANSI medium voltage switchgear and circuit breakers and Low Voltage Products.

"**Assumed Contracts**" shall have the meaning set forth in Section 1.2.

"**Assumed Liabilities**" shall have the meaning set forth in Section 1.2.

"**Backlog Contracts**" shall mean all contracts that have been formally acknowledged and accepted by Seller with respect to Burlington Products as of the Closing Date and that Seller is therefore legally bound to fulfill and which have not been fulfilled as of the Closing Date.

"**Basket**" shall have the meaning set forth in Section 0.

"**Built-In Loss**" shall have the meaning set forth in Section 2.24.

"**Burlington Facility**" shall have the meaning set forth in Section 2.20(d)(i).

"**Burlington Products**" shall have the meaning given to such term in the Powell Supply Agreement.

"**Business**" shall have the meaning set forth in the Recitals to this Agreement.

* A confidential portion of material has been omitted and filed separately with the Commission

"**Buyer**" shall have the meaning set forth in the Preamble to this Agreement.

"**Buyer Indemnitees**" shall have the meaning set forth in Section 8.3.

[*].

"**Claim Notice**" shall have the meaning set forth in Section 8.3(a).

"**Claiming Party**" shall have the meaning set forth in ARTICLE 8.

"**Closing**" shall have the meaning set forth in Section 1.8.

"**Closing Date**" shall have the meaning set forth in Section 1.8.

"**Confidential Information**" shall have the meaning set forth in Section 4.3.

"**Confidentiality Agreement**" shall mean that certain Agreement on Confidentiality between the Parties dated [*].

"**Contracts**" shall have the meaning set forth in Section 2.7.

[*]

"**Damages**" shall have the meaning set forth in Section 8.3.

[*]

[*]

"**Effective Time**" shall have the meaning set forth in Section 1.8.

"**Environmental Laws**" shall have the meaning set forth in Section 2.20(d)(i).

"**Excluded Liabilities**" shall have the meaning set forth in Section 1.3.

[*]

"**Final Installment**" shall have the meaning set forth in Section 1.4(a)(ii)d).

[*]

[*]

"**First Installment**" shall have the meaning set forth in Section 1.4(a)(i).

"**Fourth Installment**" shall have the meaning set forth in Section 1.4(a)(ii)c).

"**GE C&I Affiliates**" means any entity or entities that are directly or indirectly controlled by GE Consumer & Industrial (including, without limitation, the GE C&I China Affiliates).

"GE C&I China Affiliate" means any Affiliate of GE Consumer & Industrial including, but not limited to, Shanghai GE Breakers Co. and Shanghai GE Guangdian Co., with operations in China which include, to the extent applicable, the manufacture, marketing or sale of ANSI Medium Voltage Switchgear and Circuit Breakers.

"GE Consumer & Industrial" means the operating division of Seller known by that name at the Closing Date, including, without limitation, the GE Electrical Distribution Business, and any successor operating units or divisions or Affiliates of Seller that include the GE Electrical Distribution Business.

"GE Electrical Distribution Business" means the business of designing, manufacturing, having manufactured for it, procuring for sale or lease, selling, leasing, or reselling, marketing or representing MV Switchgear Products in the MV Market including, without limitation, the sales and distribution of products by the GE Field Sales Organization.

"GE Energy" means and shall be limited to the transmission and distribution organization (also known as the T&D organization) of GE Energy, or any successor organization within Seller that sells, leases, procures for sale or lease, markets, or represents products in the MV Market. For the avoidance of doubt, GE Energy does not and is not intended to include any other operation of GE Energy.

"GE Field Sales Organization" means the global GE Consumer & Industrial field sales organization and/or any successor organization and GE Energy.

"Governmental Body" means any (i) nation, state, county, city, borough, village, district or other jurisdiction, (ii) federal, state, local, municipal, foreign or other government or instrumentality, (iii) governmental or quasi-governmental authority of any nature, including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers, (iv) multinational organization or body, (v) body exercising or entitled or purporting to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power or (vi) official of any of the foregoing.

"Gross Margin" shall have the meaning set forth in Section 2.8.

"Hazardous Materials" shall have the meaning set forth in Section 2.20(d)(ii).

"Income Statement" shall have the meaning set forth in Section 2.8.

"Indemnified Party" shall have the meaning set forth in Section 8.3.

"Indemnifying Party" shall have the meaning set forth in Section 8.3.

"Indemnity Notice" shall have the meaning set forth in Section 8.3(d).

"Installed Base" means all Burlington Products in place based on shipments prior to the Closing Date. Burlington Products shipped under the Transition Services Agreement shall not be considered part of the Installed Base and all information related to the Burlington Products

* A confidential portion of material has been omitted and filed separately with the Commission

shipped after the Closing Date (inclusive of Burlington Products shipped under the Transition Services Agreement) is Confidential Information owned by Buyer.

"**Insurance**" means any product or service determined to constitute insurance, assurance or reinsurance by the laws or regulations in effect in any jurisdiction in which the restriction set forth in Section 4.6(a) applies.

"**Inventory**" shall have the meaning set forth in Section 1.6.

"**Inventory Price**" shall have the meaning set forth in Section 1.6.

"**JAMS**" shall have the meaning set forth in Section 9.1.

"**Law**" shall have the meaning set forth in Section 2.5.

"**Leasing**" means the rental leasing, or financing under operating leases, finance leases or hire purchase or rental agreements, of property, whether real, personal, tangible or intangible.

"**Letter**" shall have the meaning set forth in the Recitals to this Agreement.

"**Lien**" and "**Liens**" shall have the meaning set forth in Section 1.1.

"**Low Voltage Products**" means Seller's low voltage switchgear, low voltage motor control centers and medium voltage motor control centers. For the avoidance of doubt, products listed in this definition are non-arc resistant.

"**MV Market**" means and is limited to the market for MV Switchgear Products.

"**MV Switchgear Products**" means and is limited to any ANSI Medium Voltage Switchgear and Circuit Breakers.

[*]

"**Non-Standard Backlog Contracts**" shall have the meaning set forth in Section 2.24.

"**Notice Period**" shall have the meaning set forth in Section 8.3(a)

"**Order**" shall have the meaning set forth in Section 2.5.

"**Other Equipment**" shall have the meaning set forth in Section 1.5.

"**Other Equipment Purchase Price**" shall have the meaning set forth in Section 1.5.

[*]

"**Purchase Price**" shall have the meaning set forth in Section 1.4(a).

[*]

"**Second Installment**" shall have the meaning set forth in Section 1.4(a)(ii)a).

"**Securities Activity**" means any activity, function or service (without regard to where such activity function or service actually occurs) which, if undertaken or performed (i) in the United States would be subject to the United States federal securities laws or the securities laws of any state of the United States or (ii) outside of the United States within any other jurisdiction, would be subject to any law or regulation in any such jurisdiction governing, regulating or pertaining to the sale, distribution or underwriting of securities or the provision of investment management, financial advisory or similar services.

"**Seller**" shall have the meaning set forth in the Preamble to this Agreement.

"**Seller Indemnitees**" shall have the meaning set forth in Section 8.3.

"**Tax**" and "**Taxes**" shall have the meaning set forth in Section 2.13.

"**Third Installment**" shall have the meaning set forth in Section 1.4(a)(ii)b).

"**Third Party Claim**" shall have the meaning set forth in Section 8.3(a)

"**Transaction Documents**" means this Agreement, the Powell Supply Agreement, the Transition Services Agreement, GE Supply Agreement and any other document contemplated to be delivered by the Parties under this Agreement.

"**Vacuum Bottle**" means a vacuum-tight enclosure consisting of a pair of contacts, a vapor condensing shield and bellows that provides fast and quiet power switching, which is used within a power circuit breaker.

"**WARN Act**" shall have the meaning set forth in Section 2.19.

"**ZNBV Equipment**" shall have the meaning set forth in Section 2.7.

POWELL SUPPLY AGREEMENT

This Powell Supply Agreement (the "Agreement") is made and entered into this 7th day of August, 2006 (the "Effective Date") by and between General Electric Company ("GE"), a New York corporation on behalf of and for the benefit of its GE Consumer & Industrial and GE Energy business components (GE Consumer & Industrial, together with its Affiliates, is referred to herein as "Buyer"), and Powell Industries, Inc., a Delaware corporation (hereinafter called "Seller," together with Buyer referred to as the "Parties" and each individually as a "Party"). GE Energy is entering into this Agreement solely for the limited purposes of agreeing to be bound by the provisions of Section 2.14 and Articles 15, 21, 24, 25, 26, 27 and 29, and shall be deemed to be a Party or the Buyer for purposes of the obligations set forth in those sections or articles only and, further, shall be deemed a third party beneficiary with respect to all of Buyer's rights and Seller's obligations hereunder.

Recitals

Seller and Buyer have entered into that certain Asset Purchase Agreement (the "Purchase Agreement") with an effective date of even date herewith pursuant to which Seller is acquiring Buyer's business in the MV Market (as defined below), including certain assets related to such business, from Buyer (the "Acquisition").

In connection with this Agreement and the Purchase Agreement, Seller and Buyer have entered into that certain Purchase Agreement together with certain ancillary agreements, including a GE Supply Agreement (the "GE Supply Agreement") and Transition Services Agreement (the "Transition Services Agreement" and collectively with the Purchase Agreement and the GE Supply Agreement, the "Transaction Agreements").

As a condition precedent to the execution and delivery of the Transaction Agreements and the consummation of the Acquisition, Seller and Buyer have agreed to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements set forth herein, the parties agree as follows:

ARTICLE 1
DEFINITIONS

- 1.1 "*Acquisition*" shall have the meaning set forth in the Recitals.
 - 1.2 "*Affiliate*" shall mean and refer to any entity or entities that are directly or indirectly controlled by (i) GE Consumer & Industrial (including, without limitation, the GE C&I China Affiliates) or (ii) Seller, respectively.
 - 1.3 "*Agreement*" shall have the meaning set forth in the preamble.
 - 1.4 "*ANSI Products*" means American National Standard Institute compliant metal-clad switchgear which comprises an integrated assembly of vacuum circuit breakers, voltage and current instrument transformers, power bus, control components, and protective devices
-

* A confidential portion of material has been omitted and filed separately with the Commission

coordinated electrically and mechanically for the distribution of electrical energy and the protection of electrical systems and connected loads. The vacuum circuit breakers have voltage ratings from 1,000 Volts to 69,000 Volts, current ratings from 1,000 Amperes to 6,000 Amperes and interrupting ratings from 25,000 Amperes to 63,000 Amperes and a mechanical operating mechanism design to separate power contacts and break the electrical circuit in 5 cycles or less after a trip signal is received, and shall expressly *not* include, by way of example and not limitation and for the avoidance of doubt, ANSI medium voltage motor control centers and ANSI load interrupt switches, non-ANSI medium voltage switchgear and circuit breakers and Low Voltage Products.

1.5 “*Backlog Contracts*” shall mean all contracts of Buyer that have been formally acknowledged and accepted by Buyer with respect to Burlington Products as of the Effective Date and that Buyer is therefore legally bound to fulfill and which have not been fulfilled as of the Effective Date.

1.6 “*Base Powell Products*” shall mean the following ANSI Products offered by Seller on the Effective Date and any future Product derived from the following ANSI Products:

- (a) arc resistant medium voltage switchgear;
- (b) non-arc resistant medium voltage switchgear (15kV and below); and
- (c) 27-38 kV switchgear (arc resistant or non-arc resistant).

1.7 “*Bid*” shall have the meaning set forth in Section 3.1.

1.8 “*Burlington Products*” shall mean and be limited to the existing range of ANSI Products set forth on Exhibit A and assembly components related thereto (including but not limited to OEM Express), and any future ANSI Product(s) derived from one or more Burlington Products (excluding arc resistant Products and non-arc resistant 27-38 kV switchgear).

1.9 “*Buyer*” shall have the meaning set forth in the preamble.

1.10 [*]

1.11 “*Confidential Information*” shall have that meaning set forth in Article 15.

1.12 [*]

1.13 “*Effective Date*” shall have the meaning set forth in the preamble.

1.14 “*FCPA*” shall have the meaning set forth in Article 21.

1.15 “*GE*” shall mean the General Electric Company.

1.16 “*GE Affiliate*” shall mean and refer to any entity or entities that directly or indirectly control, or are controlled by or are under common control with General Electric Company.

* A confidential portion of material has been omitted and filed separately with the Commission

1.17 “*GE C&I China Affiliate*” shall mean any Affiliate of GE Consumer & Industrial, including but not limited to, Shanghai GE Breakers Co. and Shanghai GE Guangdian Co., with operations in China which include, to the extent applicable, the manufacture, marketing or sale of ANSI Products.

1.18 “*GE Consumer & Industrial*” means the operating division of GE known by that name at the time of Closing, including, without limitation, the GE Electrical Distribution Business, and any successor operating units or divisions which may, during the Term of the Agreement, include the GE Electrical Distribution Business, whether such business is controlled by GE Consumer & Industrial or by GE or any GE Affiliate.

1.19 “*GE Electrical Distribution Business*” means the business of designing, manufacturing, having manufactured for it, procuring for sale or lease, selling, leasing, or reselling, marketing or representing MV Switchgear Products in the MV Market including, without limitation, the sales and distribution of Burlington Products by the GE Field Sales Organization.

1.20 “*GE Energy*” means and shall be limited to the transmission and distribution organization (also known as the T&D organization) of GE Energy, or any such successor organization within GE, which sells, leases, procures for sale or lease, markets, or represents Required Products. For the avoidance of doubt, GE Energy does not and is not intended to include any other operation of GE Energy.

1.21 “*GE Field Sales Organization*” shall mean the global GE Consumer & Industrial field sales organization and/or any successor organization and GE Energy.

1.22 “*Initial Backlog Products*” shall mean those Burlington Products that are manufactured by Buyer under the Transition Services Agreement consistent with the Backlog Contracts which amount in revenue to Seller of up to an aggregate amount of \$ [*].

1.23 “*Initial Term*” shall have the meaning set forth in Section 6.1.

1.24 “*JAMS*” shall have the meaning set forth in Section 25.1.

1.25 [*]

1.26 “*Losses*” shall mean losses, damages, liabilities, expenses (including but not limited to reasonable attorneys’ fees, legal expenses and other reasonable dispute resolution costs), fees, penalties, fines, judgments and settlements.

1.27 “*Low Voltage Products*” shall mean Seller’s low voltage switchgear, low voltage motor control centers and medium voltage motor control centers. For the avoidance of doubt, products listed in this definition are non-arc resistant.

1.28 “*MV Market*” shall mean and be limited to the market for ANSI Medium Voltage Switchgear and Circuit Breakers.

1.29 “*MV Switchgear Products*” shall mean collectively Burlington Products and Base Powell Products.

- 1.30 “*Non-ANSI Products*” shall mean any medium voltage switchgear product that is not an ANSI Product.
- 1.31 “*No Bid*” shall have the meaning set forth in Section 3.1.
- 1.32 “*OECD*” shall have the meaning set forth in Article 21.
- 1.33 “*OECD Convention*” shall have the meaning set forth in Article 21.
- 1.34 “*OEM Express*” shall mean unfinished products sold to an original equipment manufacturer for the purpose of allowing such manufacturer to complete such product to its own or its customer’s specifications.
- 1.35 “*Parties*” shall have the meaning set forth in the preamble.
- 1.36 “*Party*” shall have the meaning set forth in the preamble.
- 1.37 “*Powell Ancillary Product*” shall mean Seller’s arc resistant low voltage switchgear, arc resistant medium voltage motor control centers, arc resistant low voltage motor control centers, and medium voltage buses and the assembly components related thereto, and any future Products derived from Powell Ancillary Products.
- 1.38 “*Power Control Modules*” shall mean self-contained solutions built around electrical switchgear and motor controls with other necessary equipment for a total turnkey package; *provided*, that, because Power Control Modules are typically used in offshore applications, they must structurally conform to international shipping and vessel standards.
- 1.39 “*Power Control Rooms*” shall mean self-contained solutions built around electrical switchgear and motor controls with other necessary equipment for a total turnkey package which are typically used in onshore applications.
- 1.40 “*Products*” means, collectively, Burlington Products, Base Powell Products, Powell Ancillary Products, Power Control Modules, Power Control Rooms and Non-ANSI Products and mutually agreed to additions thereto.
- 1.41 “*Purchase Agreement*” shall have the meaning set forth in the Recitals.
- 1.42 “*Purchase Order*” or “*PO*” shall mean a written purchase order or other procurement document issued by Buyer and accepted by Seller for the purchase of Products under this Agreement.
- 1.43 “*Renewal Term*” shall have the meaning set forth in Section 6.1.
- 1.44 “*Request*” shall have the meaning set forth in Section 3.1.
- 1.45 “*Required Products*” shall mean the following:
- (a) Burlington Products;

- (b) Base Powell Products; and
- (c) Power Control Modules and Power Control Rooms.

1.46 “*Seller*” shall have the meaning set forth in the preamble.

1.47 “*Speedi*” means Buyer’s software application which contains a module used to help provide budgetary quotes for medium voltage switchgear and contains a high-level module to configure such quotes.

1.48 “*Support Central for Sales Workflow*” means Web-based, workflow applications owned and hosted by Buyer, which contain five (5) specific workflows pertinent to the sales of switchgear as follows: request for quote, clean order process, change notice process, pre negotiation factory slotting process and pull in order process.

1.49 “*Transition Products*” shall mean any Products manufactured for Seller by Buyer pursuant to the Transition Services Agreement between Buyer and Seller of even date herewith.

ARTICLE 2
SCOPE OF AGREEMENT

2.1 Scope

As of the Effective Date, this Agreement will apply to and govern all purchases by Buyer from Seller of the Products. The terms and conditions affixed to a PO shall not apply except as permitted under Section 3.3 hereof. In the event of a conflict between the provisions of this Agreement and the provisions on a Purchase Order permitted under Section 3.3, the provisions of the Purchase Order shall govern. Further, this Agreement does not, expressly or impliedly, constitute an acceptance by Buyer of any Seller offer to sell, quotation, proposal or Bid, and any reference in this Agreement to any such offer, quotation, proposal or Bid shall neither constitute a modification of any of the terms and conditions of this Agreement nor any intent or indication by Buyer to be bound by any such offer to sell, quotation, proposal or Bid.

2.2 Product Purchase Requirements

During the Term of this Agreement and subject to the provisions of Section 3.2 below:

- (a) Buyer will purchase from Seller one hundred percent (100%) of Buyer’s requirements for the Required Products or their functional equivalents;
- (b) any GE C&I China Affiliate will, and Buyer will cause such GE C&I China Affiliate to, purchase from Buyer one hundred percent (100%) of such GE C&I China Affiliate’s requirements for ANSI medium voltage circuit breakers and ANSI switchgear components (including, for the avoidance of doubt, those included in non-ANSI equipment) to the extent Seller has such Products available at the prices requested in a manner consistent with past pricing and practices; and

* A confidential portion of material has been omitted and filed separately with the Commission

(c) If and when Seller sells arc resistant medium voltage switchgear, 27-38 kV switchgear, Power Control Modules or Power Control Rooms to Buyer under this Agreement in connection with a larger equipment package for a particular sale by Buyer to the same customer, Buyer shall also purchase from Seller under this Agreement one hundred percent (100%) of its requirements for [*] (or the functional equivalents of each) to be included in such package [*].

2.3 Bids

Buyer's obligation under Section 2.2 shall be contingent upon the following:

- (i) Seller has timely submitted a Bid (as defined below) for such Required Product;
- (ii) the Bid substantially meets the requirements of the applicable Request [*];
- (iii) [*];
- (iv) [*];
- (v) [*]; and
- (vi) [*].
[*].

2.4 Resolution Process For Bids

If Seller does not meet the requirements of Section 2.3 on a recurring or repeated basis, then the following process for resolution shall govern:

First, senior representatives of the Parties shall promptly engage in good faith discussions to resolve Buyer's concerns.

[*].

[*].

[*].

If Buyer has availed itself of the process set forth in this Section 2.4 and, as a result, either Party is dissatisfied with the result, such Party is not precluded from utilizing the alternative dispute resolution process in Article 24 and the arbitration procedures of Article 25 hereof; *provided, however*, such Party may not do so until the senior representatives have held good faith discussions and failed to reach a mutually acceptable conclusion under this Section 2.4.

2.5 Subject to the provisions of this Agreement, including but not limited to Articles 2 and 3, Seller will make available to Buyer the Products required to be purchased from Seller by Buyer under Section 2.2 hereof.

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2.6 Buyer may from time to time purchase from Seller, and Seller may sell to Buyer Non-ANSI Products, Powell Ancillary Products and Low Voltage Products not otherwise required to be purchased under Section 2.2(c) hereof. For the avoidance of doubt, the terms of this Agreement shall apply to and govern all purchases by Buyer from Seller of such Products.

2.7 In order to facilitate communication among the Parties and ensure a good working relationship:

(a) Each Party shall designate a management level individual as its account manager(s) to the other Party (“Account Managers”). The Account Managers will facilitate Seller inventory compatibility with Buyer requirements, ensure the timely and efficient implementation of processes to ensure a high level of consistent service to Buyer and act as a focal point for resolution of each Party’s problems.

(b) Senior representatives of the Parties, including legal counsel, shall meet at least once a quarter to discuss subjects of mutual interest and concern in a manner consistent with applicable competition laws, including Buyer’s purchasing requirements and forecasts, trends in Buyer’s end-customer requirements, new product development, productivity, significant changes in manufacturing locations or process, and current or potential dispute. This group shall also be the group responsible for resolving disputes under Sections 2.4 prior to submission of such disputes to the alternative dispute resolution process of Article 24.

2.8 Buyer shall be free to set its own resale prices for any Products purchased from Seller hereunder, and, consistent with the terms of this Agreement, to go to market in any manner it determines is commercially appropriate and in its own best interests.

2.9 Buyer hereby agrees to cause all of the Buyer Affiliates to continue to purchase MV Switchgear Products from Seller in a manner consistent with Section 2.2 hereof.

2.10 Buyer shall use reasonable commercial best efforts to actively and diligently promote the sale of and solicit orders for Products and to meet sales targets consistent with past practice, including, for example, the continued use of sales incentive programs, such as the Alliance Products Program or its equivalent, with the GE Field Sales Organization.

2.11 Buyer shall keep Seller timely informed of all material complaints received by Buyer from any customers associated with Products.

2.12 Buyer shall use commercially reasonable best efforts as it endeavors to maintain and strengthen its current sales relationships with any operating unit or Affiliate of Seller which currently uses or procures the Products.

2.13 Each Party shall develop and maintain its web sites as reasonably necessary to support the sale of Products by Buyer. Each Party shall provide appropriate links, at no cost to the other Party, to the other Party and at a cost to third parties as reasonably determined by such Party. Such Party shall maintain and be responsible for enhancements to Internet connections, including e-mail and linking.

2.14 During the Term of this Agreement, [*].

2.15 Notwithstanding any other provision of this Agreement to the contrary, Buyer hereby acknowledges and agrees that Seller shall not be deemed to be in breach of any provision of this Agreement for, and Buyer waives any rights it may have with respect to, (i) Buyer's obligations in the Asset Purchase Agreement, including applicable representations and warranties contained therein, and (ii) Buyer's obligations in the Transition Services Agreement, including applicable warranties contained therein, which shall survive for the Term of this Agreement.

2.16 Seller acknowledges that Buyer may have outstanding bids and quotes related to its existing contracts as of the Effective Date and that, with respect to such outstanding bids and quotes, Seller will not be presented with an opportunity to give a Bid; *provided, however*, that Seller has all rights to manufacture Burlington Products required to be delivered under such existing contracts in the manner provided under the Transition Services Agreement and Asset Purchase Agreement.

2.17 License and Access Rights.

(a) Consistent with the purpose and the scope of this Agreement and the Transaction Agreements, Buyer, on behalf of itself and its Affiliates, grants to Seller and its wholly owned subsidiaries a fully paid access-only, non-exclusive, non-transferable (except as provided in Section 29.2), worldwide license to the Speedi application. Buyer has no support or upgrade responsibility to Seller on an application if at Buyer's sole discretion Buyer materially discontinues use of such application. Buyer will provide Seller ninety (90) days written notice prior to discontinuation of Speedi. Buyer will pay for updates of Speedi if initiated by Buyer, and Seller will pay for updates of Speedi if initiated by Seller.

(b) Consistent with the purpose and the scope of this Agreement and the Transaction Agreements, Buyer, on behalf of itself and its Affiliates, grants to Seller and its wholly owned subsidiaries a fully paid access-only, non-exclusive, non-transferable (except as provided in Section 29.2), worldwide right to access to the Support Central for Sales Workflow applications. Buyer has no support or upgrade responsibility to Seller on any such application if at Buyer's sole discretion Buyer materially discontinues use of such application. Buyer will provide Seller ninety (90) days written notice prior to discontinuation of Support Central for Sales Workflow or any application thereunder. Buyer will pay for updates of Support Central for Sales Workflow if initiated by Buyer, and Seller will pay for updates of Support Central for Sales Workflow if initiated by Seller.

(c) Consistent with the purpose and scope of this Agreement and the Transaction Agreements, Seller grants Buyer a limited, fully paid, non-exclusive, non-transferable (except as provided in Section 29.2), license of the intellectual property rights acquired by Seller from Buyer under the Purchase Agreement for the sole purposes permitted under this Agreement and the Transaction Agreements. In furtherance of such license, Seller grants Buyer a right of access to the information underlying such intellectual property rights at reasonable times and locations, subject to Article 15 hereof.

* A confidential portion of material has been omitted and filed separately with the Commission

ARTICLE 3
PURCHASES OF PRODUCTS

3.1 When Buyer purchases from Seller pursuant to this Agreement, Buyer will issue to Seller a request for quote (the "Request"). The Request will contain:

- (a) a general description of the Products to be purchased hereunder;
- (b) drawings and specifications of Buyer related to the Products (the "Product Specifications");
- (c) desired delivery date, destination and export handling, if applicable;
- (d) Buyer inspection and hold point requirements;
- (e) terms and conditions of Buyer's customer;
- (f) desired title transfer, transportation and payment terms;
- (g) Buyer drawing or technical approval requirements;
- (h) special packaging requirements, if any; and
- (i) all other applicable contractual documents required by Buyer's customer.

Upon receipt of the Request, Seller shall use its best efforts to prepare and submit to Buyer a bid (the "Bid") or no bid decision ("No Bid") within the time period specified by Buyer's customer and indicated in the Request, but if no time is so specified, within five (5) business days after receipt of the Request for all Products other than Power Control Modules and Power Control Rooms, and within a mutually agreeable time with respect to Power Control Modules and Power Control Rooms. Buyer reserves the right to modify the terms of the Request if Buyer's customer requires such modifications, in which case, Buyer will adjust the time period for submission of a Bid to the extent allowed by Buyer's customer. Seller will immediately notify Buyer should Seller be unable to submit a Bid within the required period, and, if such delay is agreeable to Buyer, will submit a Bid as soon as practicable after the original bid date contained in the Request. If such a delay is not agreeable to Buyer (or to Buyer's customer), then Seller will be deemed to have elected not to submit a Bid pursuant to Section 3.2. Unless otherwise specified by Seller, a Bid shall expire thirty (30) days from the date of issuance. Buyer will be notified immediately should situations arise in which a return date for a Request cannot be supported. Seller's obligations to submit timely Bids is subject to prompt notification from Buyer to Seller with respect to each particular Request.

3.2 Seller may, in its sole discretion, provide a No Bid in the following situations without breaching any of its obligations under this Agreement:

- (a) [*];
- (b) [*]; and

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(c) [*].

3.3 Whenever Buyer purchases Product, Buyer will issue a Purchase Order setting forth all matters agreed to by the Parties related to that purchase of the particular Products. A Purchase Order shall not be considered final until accepted by Seller.

3.4 [*].

3.5 [*].

3.6 Buyer may at any time, in writing, propose changes within the general scope of any Purchase Order, in any one or more of the following: (i) drawings, or specifications where the goods to be furnished are to be specially manufactured for Buyer in accordance therewith; (ii) method of shipment or packaging; and (iii) place of delivery. Seller shall inform Buyer, in writing, within either (i) five (5) business days following the date of receipt of such change request or (ii) in the case of Power Control Modules or Power Control Rooms, within an agreed amount of time following receipt of Buyer's notice, of any change in price or schedule that would result from the change. Such Seller response will contain an expiration date. After the expiration date, such Seller response will no longer be valid. No change will be effective unless mutually agreed in writing.

3.7 If Buyer desires to implement a change and the Parties are unable to agree between them upon corresponding adjustments, the Buyer and/or Seller may initiate the alternative dispute resolution process set forth in Article 24 hereof for the purpose of establishing an equitable adjustment in the contract price or delivery schedule, or both.

3.8 Where Seller implements a change at the written direction of Buyer without a prior written agreement regarding the adjustment in price and/or schedule, any claim by Seller for adjustment must be made in writing within thirty (30) days from receipt by Seller of Buyer's written notification of change; and in such case should the Parties be unable to agree upon corresponding price and schedule adjustments, the Buyer and/or Seller may initiate the alternative dispute resolution process set forth in Article 24 hereof for the purpose of establishing an equitable adjustment in the contract price or delivery schedule, or both.

ARTICLE 4
PRICING, PAYMENT TERMS AND TAXES

4.1 Prices for the Products shall be as set forth in the Purchase Order.

4.2 The specific payment terms for each Product purchased under this Agreement will be specified in the applicable Purchase Order and in no case will be [*], inclusive of advance payments, progressive payments, or milestone payments. In the absence of such payment terms in the PO, they will be receipt of full payment, without any offset, [*] days from the date of shipment. Prices and payment will be in U.S. Dollars. Large custom engineered projects having several months duration and for which Buyer and Seller mutually agree in the applicable Purchase Order or other release mechanism to payment terms based on specific milestone completions rather than shipment may have such milestone payment schedules as agreed to by

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the Parties in the Purchase Order, and may also provide for [*] or other payment terms common to such projects.

4.3 All prices provided herein are exclusive of federal, state and local excise, sales, use, property and similar taxes, unless otherwise provided on the Purchase Order. Buyer shall have no liability for any taxes based on Seller's net assets or income or for which Buyer has an appropriate resale or other exemption.

4.4 If either Party disputes an amount owed by the other Party, all other amounts owed by such Party not in dispute shall be promptly paid.

ARTICLE 5

[*]

5.1 [*]

(a) [*].

(b) [*].

(c) [*].

[*].

ARTICLE 6

TERM AND TERMINATION

6.1 Unless otherwise terminated as provided for herein, the initial term of this Agreement shall be fifteen (15) years beginning on the Effective Date (the "Initial Term") and will automatically renew for additional successive three-year terms (each a "Renewal Term")(the Initial Term and any Renewal Term collectively referred to herein as the "Term").

6.2 This Agreement may be terminated at any time after the Effective Date:

(a) by the mutual written agreement of Buyer and Seller;

(b) by written notice from Buyer to Seller, upon the material failure of Seller to perform any material agreement or covenant of Seller hereunder in any material respect; *provided, however*, that the right to terminate this Agreement under this Section 6.2(b) shall not be exercised unless Seller fails to substantially cure its non-performance within ninety (90) days following written notice from Buyer to Seller of the existence of such non-performance; or

(c) by written notice from Seller to Buyer, upon the material failure of Buyer to perform any material agreement or covenant of Buyer hereunder in any material respect; *provided, however*, that the right to terminate this Agreement under this Section 6.2(c) shall not be exercised unless Buyer fails to substantially cure its non-performance within ninety (90) days following written notice from Seller to Buyer of the existence of such non-performance; or

(d) by either Party for any reason, upon one year written notice (given within the fourteenth year of the Initial Term or within the second year of any Renewal Term) prior to the end of the then current Term of this Agreement.

6.3 Effect of Termination.

(a) In the event of a termination of this Agreement pursuant to:

1. Section 6.2(a) or (d), the parties shall meet as promptly as practicable to decide upon a mutually agreed upon plan for terminating the relationship; or
2. Sections 6.2(b) or (c), either Buyer or Seller, as the non-breaching party, will have the right to make a claim for all Losses (at law or in equity), subject to the provisions of Articles 24 and 25 hereof, whenever arising or incurred, including amounts paid in settlement and reasonable attorneys' fees and expenses, if any, pursuant to this Agreement.

(b) In the event of the termination of this Agreement pursuant to Section 6.2, this Agreement shall become void and have no effect, except that the provisions set forth in Section 29.1 of this Agreement and any other section of this Agreement which, by its terms, survives this Agreement, shall survive any such termination.

(c) Within thirty (30) days of the date of termination of this Agreement, each Party shall pay to the other any outstanding balances under this Agreement, in each case, through the termination date.

6.4 Remedies. In addition to any right to terminate this Agreement under Section 6.2(b) or (c) and in the event of a material uncured breach of this Agreement, the injured Party shall have the right, but not the obligation to seek monetary compensation for any Losses incurred, subject to the provisions of Articles 24 and 25 hereof. A failure to terminate shall not be construed as approval, tacit or otherwise, for the act of breach, nor shall it be deemed a waiver of any rights in contract or at law.

6.5 Survival of Purchase Order. Except in the case of nonpayment and unless otherwise agreed to in writing by the Parties, the termination of this Agreement shall not affect the rights and obligations of the Parties under Purchase Orders that have been accepted by Seller but are not yet completed at the time of the termination. This Agreement shall remain in effect as to those uncompleted Purchase Orders until such Purchase Orders have been completed.

ARTICLE 7 **SHIPPING AND DELIVERY**

7.1 Shipment and delivery of Products shall be in accordance with the requirements of Buyer's customer as specified in a Purchase Order. Unless otherwise mutually agreed by the Parties and designated by Buyer in the applicable Purchase Order, title and risk of loss will pass from Seller to Buyer upon delivery F.O.B. Seller's dock. Shipment will be made by the mode of transportation specified by Buyer in the Purchase Order and charges for unique packaging requirements, shipping and transportation of Products shall be allocated in accordance with the PO. In the absence of specific shipping instructions on the PO, the method of shipping and

transportation shall be the most commercially practical and cost effective method selected by Seller and shall be paid by Seller.

7.2 On a quarterly basis in the month preceding the last month of each calendar quarter, Buyer will provide Seller a non-binding estimate of anticipated manufacturing and engineering requirements by Product for the upcoming six months (line rates). These forecasts are estimates only, and shall not be construed as a commitment by Buyer to purchase a specific quantity or type of Product, or to purchase its requirements of any Product other than as provided in Section 2 above. Under no circumstances shall Buyer be under an obligation to Seller for Products not specifically covered by a Purchase Order or in an amount in excess of the quantity so specified in a Purchase Order. Seller may, in Seller's discretion, make materials commitments or production arrangements in excess of the amount or in advance of the time necessary to meet the requirements of each PO, but Buyer will not be responsible for any materials or production commitments other than those directly related to the POs received from Buyer. Unless otherwise stipulated in the PO, Products shipped more than three (3) weeks in advance or in excess of the Purchase Order requirements may be returned to Seller by Buyer at Seller's risk and expense, and Seller shall reimburse Buyer for all costs incurred for warehousing, storage and handling of said advance or excess Products.

ARTICLE 8
DESIGN, MANUFACTURING AND QUALITY

8.1 Seller shall be responsible for the design (excluding any Buyer-directed design enhancements, modifications or customizations but specifically including any Seller-directed design enhancements, modifications or customizations to Burlington Products) and the manufacture of all Products. Seller also shall be responsible for and shall take all necessary steps to ensure that the Products comply with all applicable codes, laws, rules and regulations (both in the country of manufacture and in the countr(ies) specified in a Purchase Order where Buyer or Buyer's customer will use or distribute the Products). Products shall conform in quality and safety to all Seller and governmental requirements, will be subject to acceptance in accordance with the PO and shall be inspected at Seller's factory in accordance with the PO and its standard factory test procedures, as provided below. Buyer shall be responsible for the design relating to Products with Buyer-directed design enhancements, modifications or customizations.

8.2 Seller shall meet the specifications of the PO in the design and manufacturing of the Products, and the Products shall pass all required testing set forth in the PO.

8.3 Buyer and Seller shall cooperate and consult to obtain any required customer acceptance, including specification confirmation, of Products in accordance with the Purchase Order. Seller shall inspect and factory test the Products in order to determine that the Products meet or exceed the specifications contained in its related PO. Seller shall maintain Product design, manufacturing, testing, inspection and other safety and quality-related processes that are adequate to ensure the safety and reliability of all Products. All commercially reasonable specification compliance and reliability testing costs shall be borne by Seller. At the request of Buyer's customer, all data and documentation produced from specification compliance and reliability testing called for in the PO shall be submitted to Buyer for review and approval. Testing of the Products by either Party shall not negate, diminish or relieve Seller's obligations

or responsibilities under any express or implied warranty, indemnification, hold harmless or other similar term or provision under this Agreement. Buyer shall have no obligation to purchase any Product until the Product is inspected and tested pursuant to the above process.

8.4 Once a PO is issued by Buyer for the purchase of the Products and accepted by Seller, Seller shall not alter the terms, including Product specifications, of the PO without Buyer's written approval.

8.5 Seller shall, at its own expense, be responsible for obtaining all approvals or certifications (governmental or otherwise) required in connection with the intended use of Products, including but not limited to, UL and ANSI approvals. Buyer shall not be obligated to take delivery of any such Products until all such approvals are secured.

8.6 Seller will provide to Buyer's customer, upon the request of Buyer's customer, all Product data and associated technical specifications for commercialization and service of the purchased Product. For clarity, Seller will not provide Buyer or Buyer's customer with proprietary design data, but will supply the materials required by the PO (e.g., instruction books and manuals).

8.7 Seller shall maintain Product quality levels and Product service levels that are consistent with Seller's quality practices as of the Effective Date and its ISO 9001 certification or any successor certification as in effect from time to time.

ARTICLE 9 **INSPECTION**

As required by any particular PO, Products shall be subject to inspection by Buyer (or Buyer's representative) during the period of manufacture subject to mutually agreed schedules and charges and to final inspection and acceptance by Buyer (or Buyer's representative) at Seller's facility prior to shipment. Seller shall notify Buyer (or Buyer's designated representative) in writing as provided on the Purchase Order prior to scheduled shipment of Products for purposes of such final inspection and acceptance. If Buyer (or Buyer's representative) fails to make such inspection within that period (or as otherwise arranged with Seller), Buyer will be deemed to have waived its right to inspection and acceptance will occur upon shipment. Buyer's failure (or the failure of Buyer's representative) to inspect or reject non-conforming Products or failure to detect defects by inspection shall not relieve Seller from responsibility under Article 12, "Warranty." Seller shall provide and maintain an inspection and process control system consistent with their existing quality practices and its ISO 9001 certification or any successor certification in effect from time to time. Records of all inspection work by Seller shall be retained in accordance with Seller's then-existing retention policy.

ARTICLE 10 **REJECTIONS**

When any of the Products under a particular PO are found to be defective or unusable as provided in such PO, or otherwise not in conformity with the requirements of such PO, including but not limited to the Product Specifications, prior to installation, Buyer may reject such Products and require Seller, at Seller's expense, to inspect the Products and to repair or replace

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non-conforming Products (or parts thereof) with Products (or parts thereof) that conform to such PO and to otherwise take such actions as may be required to cure all defects and/or bring the Products into conformity with all the requirements of the PO.

ARTICLE 11
SELLER'S FAILURE TO PROVIDE PRODUCT

In the event that Seller fails to deliver Products to Buyer in breach of Seller's obligations under this Agreement and a specific Purchase Order and Seller does not diligently commence to cure such failure in a manner reasonably satisfactory to Buyer within ten (10) days of receipt of written notice of same from Buyer, Buyer shall have the right to cancel, in whole or in part, any Purchase Order affected by such delay. In addition, Buyer shall have the right to procure replacement products for the cancelled Products to the extent included in such Purchase Order, and Seller shall be liable to Buyer for any difference in the price of such replacement products and the prices set forth in the Purchase Order.

ARTICLE 12
WARRANTY

12.1 Seller shall provide such Product warranties as are mutually agreed in writing by the Parties in writing and specified on the accepted Purchase Order. Except as so otherwise agreed in writing by the Parties in the accepted Purchase Order, Seller warrants to Buyer (for the benefit of Buyer, its successors, assigns and customers of Products sold by Buyer) that Products furnished hereunder will conform to the mutually agreed Product Specifications, be new and of good material and workmanship, free from all material defects in design (excluding any Buyer directed design enhancements, modifications or customizations but specifically including any Seller's design enhancements, modifications or customizations to Burlington Products), material, workmanship and title, comply with all applicable laws, and will be of the kind and quality specified in the PO. Except as otherwise agreed in the accepted PO, Seller's warranties shall apply only to failures to meet said warranties (excluding any defects in title) which appear within [*] from installation or [*] from the date of shipment, whichever ever occurs first; *provided, however*, that (a) if Buyer, as specified in the PO transfers title to or leases such Products (including equipment incorporating such Products) to a third party, such period shall run until [*] from shipment by Seller and (b) any such limitation on the period of Seller's warranty shall in no way limit Seller's indemnity obligations for third party claims or product recall provided elsewhere under this Agreement.

12.2 The warranties and remedies related to defects (except as to title) set forth in Section 12.1 herein and the accepted Purchase Orders are conditioned upon (a) proper storage, installation, use and maintenance, and conformance with any written recommendations of Seller; (b) absence of alterations, tampering or other actions impacting negatively the Product's functionality and (c) Buyer promptly notifying Seller of any defects upon receipt of notice of such defect from its customer (whether oral or written) and, if required, promptly making the Product available for correction.

12.3 If any Product fails to meet the warranties referenced in Section 12.1 (except title), Seller shall, at Seller's option, either promptly repair or replace such Product at Seller's sole expense.

If repair or replacement is not feasible, Seller shall promptly refund the purchase price of the Product to Buyer. Notwithstanding the foregoing, this Section 12.3 shall in no way limit Seller's indemnity obligations for third party claims or product recall provided elsewhere under this Agreement.

12.4 Buyer will provide notice of warranty claims to Seller's Account Manager. Seller will provide and/or participate as required in the analysis of any defective Product to identify the main cause of such defect and also initiate appropriate corrective action. Analysis will be performed on 100% of Products that are returned as a result of a defect, or as otherwise agreed between Buyer and Seller. Seller will apply reasonable commercial efforts to respond to Buyer within a commercially reasonable period of time from receipt of returned Product with a written analysis of the cause of failure.

12.5 Unless an alternate method of response is mutually agreed, Buyer will commence to dispatch a field service representative to investigate customer warranty claims within 24 hours from Buyer's notification to Seller. If in Buyer's judgment, circumstances dictate an immediate response, Buyer may send, at its expense, a field service representative prior to notification to Seller. If Product is found to be defective, Seller will reimburse Buyer for its direct costs associated with sending its field service representative. All warranty servicing will be provided by Seller at Seller's expense.

12.6 This Article 12 sets forth Buyer's exclusive remedies for its claims (except as to title and excluding claims for indemnification against third party claims and product recall obligations provided elsewhere under this Agreement) based on defect in or failure of Products, whether the claim is in contract or tort (including negligence) and however instituted. Except as set forth in Section 18.1 and elsewhere in this Agreement, the foregoing warranties are exclusive and in lieu of all other warranties, whether written, oral, implied or statutory. **NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTY OF NON-INFRINGEMENT, OR ANY WARRANTY THAT MIGHT OTHERWISE ARISE FROM THE COURSE OF DEALING BETWEEN THE PARTIES OR FROM ANY USAGE OR TRADE SHALL APPLY.** Upon the expiration of the warranty period, all such warranty liability (other than pending claims for which Seller has been placed on notice, title claims, claims for indemnification from third party claims and product recall obligations) shall terminate.

ARTICLE 13 HAZARDOUS CONDITIONS AND PRODUCT RECALLS

13.1 If at any time Seller learns of any issue relating to a potential safety hazard or unsafe condition involving Products, or is advised by any governmental agency having jurisdiction that such a potential safety hazard or unsafe condition may exist, Seller shall immediately advise Buyer by the most expeditious means of communication under the circumstances, such as by telephone, email, fax, or overnight mail, with confirmation of delivery. If a hazardous or unsafe condition should exist (or be determined to exist by any governmental agency having jurisdiction) in any Products, causing significant risk of serious personal injury or property damage under normal use and service, Seller and Buyer shall cooperate in correcting the hazardous or unsafe condition. But, in accordance with Section 19 of this Agreement, Seller will

remain responsible for any liability, claim, cost or expense that Buyer or its customers may incur in connection with the correction.

13.2 If Seller, Buyer, or any governmental agency having jurisdiction finds at any time that any Products contain a defect or a serious quality or performance deficiency, or are not in compliance with any applicable governmental code, standard or requirement, making it advisable that the affected Products be recalled or repaired, Seller shall promptly undertake appropriate corrective actions including those required by any applicable law and the regulations thereunder, and shall file all necessary papers descriptive of corrective action programs, and other related documents and carry out corrective action programs. Buyer shall cooperate with and assist Seller in any such filing and in taking corrective action, and Seller shall timely locate with Buyer's assistance, at Seller's expense, all Products subject to recall or repair. Seller shall make all necessary repairs or modifications to the affected Products, at its expense, except to the extent that Seller and Buyer agree to the performance of such repairs by Buyer or Buyer's customers upon mutually acceptable terms. Seller and Buyer recognize that, under certain conditions, other Seller-manufactured products may contain the same defect or noncompliance condition contained in the affected Products. Seller and Buyer agree that any recall involving any Products shall be treated separately from similar recalls of other Seller products, provided that such separate and distinct treatment is lawful and that Seller shall in no event fail to provide the same level of protection to Buyer with respect to the affected Products as Seller provides to Seller's other customers in connection with such similar recalls. Either Party shall give prior notice to the other Party before making any statements to the public concerning safety hazards affecting Products, except where such prior notice would interfere with the timely notification required to be given under any applicable law or regulation, including requirements under U.S. securities laws. In all cases, each Party shall be the sole authority to make statements on its own behalf to a governmental agency concerning safety hazards affecting Products.

13.3 For the Term of this Agreement, Seller shall monitor and keep records of all safety-related field incidents involving Seller-manufactured or Seller-distributed Products that are substantially similar to Products purchased by Buyer under this Agreement, and shall regularly inform Buyer about those incidents and make those records available upon Buyer's reasonable request.

ARTICLE 14 **TRADEMARKS**

14.1 Products shall bear only such names and trademarks as are specified in this Agreement or otherwise agreed to in writing by Buyer and Seller. Any such names and trademarks shall remain the sole and exclusive property of, and any rights that may accrue from such tradename/trademark usage shall inure to the sole benefit of the Party who owns such trademarks, or Buyer's customers, if the designated trademark and/or trade name is owned (or licensed) by Buyer's customers. The Parties acknowledge and agree that such use of the other Party's trademarks, markings and concepts in connection with the Products shall not at any time or in any manner give the other Party the right to, ownership of or interest in or the right to otherwise use such trademarks, designs or markings. It is understood and agreed that the respective trademarks and tradenames of Seller and Buyer shall remain the sole and exclusive property of each such Party.

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14.2 Unless otherwise agreed by the Parties in writing, Products sold under this Agreement shall be branded as follows:

- (a) [*]
- (b) [*]
- (c) [*]
- (d) [*]

14.3 Seller agrees to use the name and trademarks of Buyer, GE or its customers only on and in connection with Products manufactured for Buyer pursuant to this Agreement and only in forms and arrangements approved in advance in writing by Buyer. Seller shall not sell or dispose of any Product bearing any of Buyer's or GE's trademarks or trade names (or those of their customers) to any person or entity other than Buyer, unless expressly authorized to do so in writing by Buyer. In the event that any Products so labeled are not delivered to Buyer, whether due to scrap, rejections, cancellation of orders or otherwise, Seller will promptly remove and destroy or, at the request of Buyer, return to Buyer, any and all labels, nameplates, or other trademarks placed on such Products. It is understood and agreed that money damages would not be a sufficient remedy for any breach of the provisions of this Article 14 and that the Party being harmed shall be entitled to equitable relief, including injunction and specific performance, as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach by a Party of this Article 14 but shall be in addition to all other remedies available to such Party at law or in equity.

14.4 Buyer will provide Seller with a layout of the Product nameplate and shipping container label, as well as the artwork for Buyer's logo and name, the site and date code tables if applicable.

14.5 In addition to the foregoing, if any statute, law, rule or regulation of any jurisdiction in which Products are sold require that the name of the manufacturer of the Products be indicated thereon, sufficient identification for compliance shall be placed on those Products.

14.6 Any actions taken by Buyer, in Buyer's sole discretion, to disallow the use of Buyer's brand or trade name by Seller will not be considered presumptively as a breach of this Agreement by either Party. Accordingly, Buyer shall continue to buy Required Products under Seller's brand if Buyer disallows use of Buyer's brand or trade name by Seller; *provided, however*, if Buyer's discontinuance results from Seller's uncured continued material breach of this Agreement, Buyer's termination rights under Section 6.2(b) hereof shall still apply to the extent set forth in Section 6.2(b).

ARTICLE 15
DISCLOSURE OF INFORMATION

Each Party agrees and acknowledges that, as a result of this Agreement and the Transaction Agreements, each of them will be exposed to the confidential and proprietary information of the other Party and the other Party's Affiliates and employees, including, but not limited to, all non

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public information related to each Party's business (the "Confidential Information"). Each Party agrees to take all commercially reasonable measures to mark as "Proprietary," "Confidential," or with other similar restrictive markings, any Confidential Information disclosed in writing or other tangible form to the other party or, if initially disclosed in unmarked or intangible form, to reduce the Confidential Information to a properly marked tangible form and provide such marked Confidential Information to the receiving party within thirty (30) days from the date of disclosure. Notwithstanding the above, both parties acknowledge and agree that, as a result of the Purchase Agreement, Seller will acquire all confidential information as defined therein ("PA Confidential Information"). For purposes of this Section and this Agreement, "Confidential Information" shall be deemed to include PA Confidential Information. Each Party agrees to take all commercially reasonable measures to prevent the Confidential Information from being acquired or retained by unauthorized Persons (including Buyer preventing disclosures to other operating units of GE) to the same extent it protects its own confidential and proprietary information, and Buyer will not disclose the Confidential Information to other operating units of GE or third parties (except for outside consultants and advisors of such party as needed to perform under this Agreement and the Transaction Agreements) without the prior written consent of Seller, except as permitted by the Agreement or the Transaction Agreements or as required by applicable law. Neither Buyer nor any of its Affiliates, on the one hand, nor GE or any GE Affiliate, on the other hand, may disclose or use the Confidential Information of Seller for any purpose other than the performance of its obligations pursuant to this Agreement or the Transaction Agreements or as required by applicable law (except for disclosure to outside consultants and advisors of such party on an as-needed basis). To further this end, each Party agrees to extend its respective obligations under this Section 15 for a period equal to the longer of [*] or [*] following the termination of this Agreement. Notwithstanding the foregoing, Confidential Information shall not include (a) information that is in the recipient's possession prior to disclosure to it (other than Confidential Information relating to MV Switchgear Products, the MV Market or the GE Electrical Distribution Business acquired by Seller from Buyer), (b) information that is or becomes publicly available, provided that such public availability does not result from the misappropriation or misuse of such information by the recipient and

(c) information that is developed independently by the recipient without the use of any Confidential Information. Any rights of access to information granted to either Party by the other Party in the Purchase Agreement, including as set forth in Sections 1.7 and 4.3 thereof, shall hereby survive for the Term of this Agreement.

ARTICLE 16
EXCUSABLE DELAYS

Except with respect to any obligation of payment, neither party shall be liable to the other for delay in performance or failure to perform due to causes beyond its reasonable control including, by way of example and not limitation, acts of God, acts of the other party, strikes, serious global shortage of materials, earthquakes, storms, floods, wash-outs, explosions, breakage or accident to equipment or machinery material to the development and construction of the Products, acts (including failure to act) of any governmental authority, governmental priorities, fires, sabotage, epidemics, wars, riots, terrorist acts, and which, in any event, is not a result of the negligence or willful misconduct of the Party claiming the right to delay performance on account of such occurrence. If the performance of a Party is excused by this Article, such Party agrees to furnish the other Party with prompt written notice of the event that has prevented performance and agrees to use reasonable commercial efforts to eliminate the effect of such event. If Seller is unable to perform for more than thirty (30) days due to one of the causes above, Buyer may cancel the affected Purchase Order without penalty to either Party. Delay of Seller's suppliers or scarcity of materials or parts or delays in transportation shall not excuse Seller's performance hereunder unless or except as is due to one of the causes noted above.

ARTICLE 17
NON-SOLICITATION

17.1 During the Term of this Agreement:

(a) Neither Buyer nor Seller shall directly or indirectly solicit or induce any third party sales representative that has a business relationship with the other Party or any of its Affiliates in the MV Market to discontinue such existing relationship in the MV Market; or

(b) Buyer shall not, for a period of four (4) years after the Effective Date, directly or indirectly recruit, solicit, induce or influence any employee of Seller or any of Seller's Affiliates to discontinue such employment relationship, except for general solicitations such as job fairs, print or media advertising, etc. or direct unsolicited inquiries by such employees; or

(c) Neither Party shall directly or indirectly denigrate or in any manner undertake to discredit or disparage the other Party or, as may be applicable, any Affiliate or any successor thereof or any person, operation or entity associated with the transactions contemplated by this Agreement.

17.2 If the length of time, type of activity, geographic area or other restrictions set forth in this Article 17 are deemed unreasonable in any court proceeding, the Parties hereto agree that the court may reduce such restrictions to ones it deems reasonable, valid, and enforceable under applicable laws to protect the substantial investment of both Parties in the MV Market, the

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goodwill attached thereto, the mutually beneficial long-term relationship established in the Agreement and the confidential information of both Parties relating to the Products.

17.3 Each Party understands that the other Party will not have an adequate remedy at law for the breach or threatened breach of any one or more of the covenants set forth in this Article 17 and agrees that in the event of any such breach or threatened breach, the non-breaching Party, in addition to the other remedies which may be available to it, may file a suit to enjoin the breaching Party from the breach or threatened breach of such covenants. In the event the non-breaching Party commences legal action to enforce its rights under this Article 17, the prevailing Party in such action shall be entitled to recover all of its costs and expenses in connection therewith, including reasonable attorneys' fees.

ARTICLE 18 **INSURANCE**

18.1 It is understood and agreed by the Parties that neither the policy limits of insurance required of Seller under this Article 18 nor the actual amounts of insurance maintained by Seller under its insurance program shall in any way limit or reduce Seller's indemnity obligations under this Agreement.

18.2 Seller shall obtain and at all times during the Term of this Agreement maintain at its own expense public liability, property damage and other insurance coverage of not less than \$ [*] per occurrence with a cap of not less than \$ [*] and with carriers reasonably acceptable to Buyer. Seller shall also maintain at its own expense product liability insurance in the amount of at least \$ [*] per occurrence involving one person in any incident, and an additional \$ [*] per occurrence involving more than one person in any incident, naming Buyer as a co-insured party. The insurance provided by Seller hereunder does not alleviate Seller from any of its obligations under this Agreement.

18.3 Within ten (10) days after the Effective Date of this Agreement, Seller shall furnish Buyer with a certificate of insurance as evidence of the above required insurance and that all coverages provided shall be primary. The product liability insurance obtained must be occurrence based and shall cover the actions of any subcontractor that Seller may utilize under this Agreement. Such insurance shall require the underwriters to provide Buyer thirty (30) days advance written notice of any cancellation or adverse material change with respect to any of the policies.

ARTICLE 19 **INDEMNITY AND LIMITATION OF LIABILITY**

19.1 Seller warrants that, the Products [*] furnished hereunder, and any part thereof, shall be delivered free of any rightful claim of any third party for infringement of any patent or other proprietary rights (including copyrights). Seller shall indemnify and hold Buyer, GE and Buyer's customers harmless against any actual or threatened Losses, subject to Articles 24 and 25 hereunder, based on a claim by a third party that the manufacture, use, offer to sell or sale of any Products purchased by Buyer

under this Contract constitutes an infringement of any patent(s) or other proprietary rights (including copyrights) of any third party in the United States, and, if notified promptly in writing by Buyer and given authority, information and assistance by Buyer (at Seller's expense), will defend any suit or proceeding brought against GE, Buyer, or its customers insofar as it is based on such a claimed infringement, and Seller shall pay all damages and costs awarded therein. If, as a result of any such suit or proceeding the use or sale of Products purchased by Buyer from Seller under this Agreement is enjoined, Seller, at its own expense and option, shall provide for Buyer's supply of Products by (a) procuring the right for Buyer and Buyer's customers to use and sell such Products, (b) replacing the enjoined Products with interchangeable Products which have substantially the same quality and performance but which are non-infringing, or (c) authorizing Buyer to return its inventory of enjoined Products and refund to Buyer the full purchase price of such Products and any direct costs of Buyer associated with such return.

19.2 Seller assumes no liability for infringements of patent or other proprietary rights covering any combination of the Products with any other product not supplied by Seller, any incorporated GE products or components pursuant to Section 2 or any method or process in which the Products may be used, where such infringement would not have occurred but for such combination or use. Furthermore, Seller shall not be liable and Buyer will indemnify and hold Seller harmless for any patent infringement or infringement of other proprietary rights arising from modifications made by Buyer or made by Seller in compliance with Buyer's design, specification or instruction, where such infringement would not have occurred but for such modifications or compliance, except to the extent that the infringement arises from the manufacturing process employed by Seller (unless such process is specified in writing by the Buyer).

19.3 Seller agrees to indemnify and hold harmless Buyer from and against any Losses asserted by third parties for:

(a) except as provided below, damage to third party property (including economic or financial loss), or for death or bodily injury, or both, that actually or allegedly results from (i) any failure of Product to comply with the Product Specifications (functional, design or otherwise), warranties or certifications of this Agreement; (ii) the negligence or willful misconduct of Seller or its sub-suppliers (other than Buyer) in designing, manufacturing, or otherwise handling Product or parts therefor, to the extent such damage or injury is attributable to the negligence or willful misconduct of Seller; (iii) defects in Product giving rise to claims based on strict or product liability; (iv) failure to warn or inadequate warnings or instructions, or (v) breach of this Agreement, except that, in the event that any such damage or injury is caused by the joint or concurrent negligence of Seller and Buyer, the Loss shall be borne by Seller and Buyer in proportion to their negligence; *provided, however*, Seller shall not be liable for any claims arising from modifications or improper use made by Buyer in compliance with Buyer's designs, specifications or instructions or resulting from the incorporation of Buyer products or components, where such claim would not have occurred but for such modifications, compliance or incorporation. Specifications provided to Seller pursuant to the Acquisition under the Purchase Agreement shall not be considered specifications furnished by Buyer for purposes of this Section 19.3; or

* A confidential portion of material has been omitted and filed separately with the Commission

(b) violation by Seller in any material respect of any governmental laws, rules, ordinances or regulations.

19.4 Buyer agrees to indemnify and hold harmless Seller from and against any Losses asserted by third parties for:

(a) any claims arising from (i) improper use or tampering by Buyer, (ii) modifications made in compliance with Buyer's designs, specifications or instructions, or (iii) the incorporation of Buyer products or components, where such claim would not have occurred but for such modifications, compliance, tampering or incorporation;

(b) any claims arising from Buyer's customers as a result of representations about or warranties on Products made to such customer not consistent with the Seller's representations about or warranties on Products made to Buyer;

(c) [*]

(d) any claims for personal or bodily injury, including death, suffered or incurred by Buyer's employees while performing acts pursuant to this Agreement, except to the extent caused by the negligence or willful misconduct of Seller; or

(e) breach of this Agreement.

19.5 In order to make a claim for indemnification under this Article 19, a Party seeking indemnification must give the other Party prompt notice of any such claim and all necessary information and assistance so such Party, at its option, may participate in the defense or settlement of such claim and the Party seeking indemnification does not take any adverse position to the other Party in connection with such claim.

19.6 In the event of any such claims, the indemnified Party shall: (1) promptly notify the indemnifying Party, (2) at the indemnifying Party's expense, reasonably cooperate with the indemnified Party in the defense thereof, and (3) not settle any such claims without the indemnifying Party's consent which indemnifying Party agrees not to unreasonably withhold. The indemnifying Party shall keep the indemnified Party informed at all times as to the status of the indemnifying Party's efforts and consult with the indemnified Party (or counsel to the indemnified Party) concerning the indemnifying Party's efforts; and, the indemnifying Party shall not settle the claim without the indemnified Party's prior written consent, which consent will not be unreasonably withheld.

19.7 IN NO EVENT (OTHER THAN IN FULFILLMENT OF ITS INDEMNIFICATION OBLIGATIONS FOR THIRD PARTY CLAIMS AND PRODUCT RECALL) WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFIT OR

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REVENUES, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES, SERVICES OR REPLACEMENT POWER, OR DOWN TIME COSTS.

19.8 Additionally, Seller's liability to Buyer for any Losses, subject to the provisions of Articles 24 and 25 hereof, arising out of, or resulting from this Agreement, or from its performance or breach, or from the Products furnished hereunder, shall not exceed the purchase amount provided on the Purchase Order for the Products which gave rise to the claim, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, except (a) as otherwise mutually agreed by the Parties and provided on the applicable accepted Purchase Order, or (b) in fulfillment of Seller's indemnification obligations for third party claims and product recall obligations hereunder.

19.9 The provisions of this Article 19 shall survive any termination or expiration of this Agreement.

ARTICLE 20
PUBLIC DISCLOSURE

20.1 Seller may issue a press release regarding the Acquisition, this Agreement and the Transaction Agreements immediately (but in no event later than thirty (30) days) following the Effective Date, the substance of such announcement to be subject to reasonable changes by Buyer; *provided however*, that Seller shall have final approval with respect to any such press release, other than with respect to statements attributable to Buyer. Buyer may not make any public announcement with respect to the Acquisition, this Agreement or the Transaction Agreements without the prior written consent of Seller, which consent shall not be unreasonably withheld. Subject to the preceding sentences, and except as otherwise agreed in writing by Seller and Buyer or as required by law or regulation, each of Seller and Buyer shall maintain as confidential the existence, terms and conditions of this Agreement and the Transaction Agreements.

20.2 Buyer acknowledges that Seller will be required under the rules and regulations (the "SEC Rules") promulgated by the Securities and Exchange Commission (the "SEC") to file this Agreement and one or more of the Transaction Agreements with the SEC within four days of the Effective Date. Seller agrees to seek confidential treatment of certain sensitive provisions contained in such documents in the manner prescribed under the SEC Rules (which, among other things, would require a filing of the entire document to be mailed to the SEC one day prior to the required filing). Seller and Buyer agree to work together in redacting such provisions of this Agreement and the other Transaction Agreements prior to the date that they are required to be filed with the SEC [*]. Notwithstanding the foregoing, Buyer acknowledges that the filing is ultimately Seller's disclosure requirement with the SEC. Seller can make no assurances that any of such provisions will not ultimately be required to be filed in the event such request for confidential treatment is reviewed by the SEC, and Buyer agrees that Seller will not be in violation of any provisions of this Agreement or any other Transaction Agreement to the extent it is required to file such provisions by the SEC.

ARTICLE 21
COMPLIANCE WITH LAW

21.1 After the Effective Date, the Parties and their respective agents, representatives and affiliates, shall comply in all material respects with all applicable laws in performing their obligations under this Agreement, including without limitation the following:

(a) *FCPA*. Buyer and Seller are especially sensitive to and concerned about the application of the U.S. Foreign Corrupt Practices Act (the “FCPA”) as amended by the International Anti-Bribery and Fair Competition Act of 1998 which may be applicable to either of the Parties to this Agreement within the jurisdiction of the United States and any of the U.S. citizens which may be principals or shareholders or members or directors or officers of any of the Affiliates of either Party and, accordingly, recognizes that the FCPA’s anti-bribery provisions prohibit the direct or indirect payment of money or anything of value with corrupt intent to employees or officials of a foreign government, public international organization, or political party in order to obtain or retain business or to secure any improper advantage and that the record keeping and accounting provisions thereof require the books, records and accounts are kept in reasonable detail and accurately and fairly reflect transactions and dispositions of assets. Each Party agrees that neither it nor any of its Affiliates will at any time engage in any action that would constitute a violation of the FCPA.

(b) *OECD*. Each Party represents that it is also familiar with and that the other Party is concerned about the application of the Organization For Economic Cooperation and Development (the “OECD”) promulgated by the Convention in Combating Bribery of Foreign Public Officials in International Business Transactions (the “OECD Convention”). Each Party agrees that neither it nor any of its Affiliates will at any time engage in any action that would constitute a violation of the OECD.

(c) *Equal Opportunity*. Each Party represents that it is in compliance and will remain in compliance with any and all requirements imposed by law, regulation or Executive Order upon prime contractors or subcontractors under contract with any governmental agency, including the Equal Opportunity Clause set forth in 41 CFR Chapter 60-1.4, the Affirmative Action Clause regarding Special Disabled Veterans and Veterans of the Vietnam Era set forth in 41 CFR Chapter 60-250.5(a), the Affirmative Action Clause regarding Workers with Disabilities set forth in 41 CFR Chapter 60-741,5(a) and any other provisions of contractual clauses required by the OFCCP as set forth in 41 CFR Chapter 60, as well as any Executive Orders as now or hereafter issued, amended or codified which requirements are incorporated herein by reference. By accepting or performing this Agreement, each Party certifies in accordance with 41 CFR part 60 — 1.8 with respect to orders exceeding \$10,000 and not otherwise exempt from the Equal Opportunity Clause (E.O. 11246 as amended by E.O. 11375) that it does not and will not maintain segregated facilities or permit its employees to perform services at any location under its contract where segregated facilities are maintained, and that it will obtain similar certification before the award of any non-exempt contract. Executive Order 13201 Compliance: Each Party agrees to comply with the provisions of 29 CFR 470.

(d) *Fair Labor Standards Act*. Seller certifies and covenants that Products will be produced and provided, in compliance with the requirements of the Fair Labor Standards Act of

1938, as amended. Seller further certifies and covenants that none of the Products supplied hereunder have been or will be produced or supplied (by Seller or its sub-suppliers (other than Buyer)) utilizing forced, indentured, convict or child labor or utilizing the labor of persons in violation of the minimum working age law in the country of manufacture or in any jurisdiction in which services are provided, or in violation of minimum wage, hour of service or overtime laws of the country of manufacture or provided services.

(e) Import/Export Regulations.

1. Each Party and its Affiliates shall comply with applicable import and export laws and regulations of the United States and of any other country in which they perform under this Agreement and with all applicable export licenses and their provisions, including licenses to import or export the Products.
2. Upon either Party's request, the other Party shall promptly furnish any necessary documentation, including import certificates from the U.S. Government or any other relevant government, which is reasonably necessary to support a Party's application for import or export authorizations issued by any relevant government.
3. If any relevant government denies, fails to grant, or revokes any import or export authorizations necessary for the performance of a Purchase Order under this Agreement, the Party who receives such notice shall immediately notify the other Party, and neither Party shall be responsible for performance or payment under this Agreement for any directly affected activities.

ARTICLE 22
ENVIRONMENTAL, HEALTH, SAFETY AND SECURITY

22.1 For all Products sold or otherwise transferred to Buyer under this Agreement containing hazardous materials, Seller shall provide all relevant information pursuant to Occupational Safety and Health Act (OSHA) regulations codified at 29 CFR 1910.1200, including completed Material Safety Data Sheets (OSHA Form 20) and mandated labeling information, including information satisfying similar EU MSDS/labeling requirements, or any similar requirements in any other jurisdictions to which Buyer informs Seller the Products are likely to be shipped, whether or not the standard applies to the activities of Seller.

22.2 Seller shall disclose to Buyer the existence of any and all hazardous materials contained in Products and other materials sold or otherwise transferred to Buyer hereunder, which Products shall not contain arsenic, asbestos, benzene, cadmium, carbon tetrachloride, hexavalent chromium, lead, mercury, polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE) (flame retardants), polychlorinated biphenyls (PCB), any other hazardous substances the use of which is restricted under EU Directive 2002/95/EU (27 January 2003) (RoHS Directive), as amended, or any other chemicals currently restricted, or as may become restricted under the Montreal Protocol or any other applicable law, rule or regulation in the place of final sale or to which Buyer informs Seller the goods are likely to be shipped, unless Buyer expressly agrees otherwise in writing.

22.3 Seller also represents, certifies and covenants (i) that no substance contained in Products is a “hazardous substance” as defined under CERCLA, **or if so**, that Products are produced in compliance with applicable state and federal requirements and Occupational Safety and Health Act (OSHA) regulations, and (ii) that any chemical substance constituting or contained in the Products is not on the list of chemical substances compiled and published by the Administrator of the US Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 USC Section 2601, et seq.) as amended, the European Inventory of Existing Commercial Chemical Substances (EINECS), the European List of Notified Chemical Substances (ELINCS), or any equivalent lists in any other jurisdiction to which Buyer informs Seller Products will likely be shipped. In addition, Seller certifies that the Products, in all material respects, are in compliance with the applicable laws, rules and regulations administered by the U.S. Environmental Protection Agency.

22.4 Seller covenants that any wood packing or wood pallet materials are in compliance with the import restrictions and treatment requirements of the United States Code of Federal Regulations, 7 CFR 319.40-1 through 319.40-11, as may be changed or amended, and the International Plant Protection Convention Standards on Wood Packing Materials. Seller shall provide Buyer with any certifications required by Buyer to evidence such compliance.

ARTICLE 23
NO AGENCY

In performing its duties hereunder, Seller shall act solely as an independent contractor and not as an agent, partner, joint venturer or employee of Buyer or its Affiliates. Neither Party shall represent to third persons that Seller’s status with respect to Buyer is anything other than that of an independent contractor. Neither Party shall have any express or implied right or authority to assume or create any obligations on behalf or in the name of the other Party or to bind the other Party to any contract or undertaking with any other person, nor shall such Party represent that it has such authority. Seller shall not have the right to control and shall not exercise the right to control, the acts, activities, or conduct of Buyer’s employees, and nothing contained herein shall be deemed to make Seller a joint employer with respect to any employees of Buyer.

ARTICLE 24
ALTERNATIVE DISPUTE RESOLUTION

24.1 *Alternative Dispute Resolution.* Unless otherwise specified in this Agreement, any dispute arising out of or relating to this Agreement shall be resolved in accordance with the procedures specified in this Section 24, which shall be the required procedures for the attempt to resolve any such disputes, and shall be a condition precedent to the right to demand arbitration pursuant to Article 23.

24.2 *Mandatory Negotiation.*

(a) The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between the Parties. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. Within fifteen (15) days after delivery of the notice, the receiving Party shall submit to the other Party a

written response. The notice and the response shall include: (a) a statement of each Party's position and a summary of arguments supporting that position, and (b) the name and title of the executive, employee or advisor who will represent that Party in meetings and of any other person who will accompany the executive. Within thirty (30) days after delivery of the disputing Party's notice, the Parties shall meet at such location as mutually agreed by the Parties, at a mutually convenient time and, thereafter, as often as they reasonably deem necessary to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored.

(b) If the matter has not been resolved to the satisfaction of both parties within sixty (60) days of the initiating Party's notice, or if the Parties fail to meet within thirty (30) days, then the matter shall be brought before the Chief Executive Officer of Seller, on the one hand, and the President and Chief Executive Officer of the Consumer & Industrial operating component of GE, on the other hand, to negotiate a final resolution.

(c) If the matter has not been resolved by the officers described in subsection (b) above to the satisfaction of both Parties within thirty (30) days, either Party may initiate Arbitration pursuant to Article 25.

24.3 *Confidentiality.* All negotiations, discussions, and communications made or conducted pursuant to the procedures set forth in this Article 24 are confidential, constitute Confidential Information hereunder and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and any other applicable rules of evidence.

ARTICLE 25 **ARBITRATION**

25.1 Any dispute or difference arising under this Agreement which cannot be resolved pursuant to Article 24 shall be decided by arbitration in accordance with this Article. Any such arbitration shall be conducted expeditiously and confidentially in accordance with the commercial Arbitration Rules of the Judicial Arbitration and Mediation Service ("JAMS") as such rules shall be in effect on the date of delivery of demand for arbitration. Any such arbitration shall be heard and conducted in Fulton County, Georgia. Notwithstanding the rules of the JAMS or as otherwise provided in this Agreement, the arbitration panel in any such arbitration shall consist of three persons who must be retired state or federal judges and shall have the authority to retain such experts familiar with the switchgear manufacturing business as they deem necessary. Within twenty (20) days of delivery of any demand for arbitration hereunder, the Party or Parties demanding arbitration shall appoint one arbitrator, the Party or Parties responding to the arbitration demand shall appoint one arbitrator and the two arbitrators so selected shall appoint the third arbitrator within twenty (20) days of their appointment. If the two selected arbitrators are unable to agree upon the selection of a third arbitrator after reasonable efforts, a panel of seven qualified persons shall be requested from the JAMS. The Parties shall alternatively and successively strike one person at a time, from such list; and the last remaining person on such list shall be the third designated arbitrator. Once appointed, the arbitrators shall permit the Parties to engage in such reasonable discovery as is requested and required. Each Party to the arbitration proceedings shall be given a copy of all information submitted to the arbitrators and shall be given a reasonable opportunity to respond to such

information. Unless otherwise provided in this Agreement, each Party shall pay the fees of its own attorneys, expenses of witnesses and all other expenses connected with the presentation of such Party's case in arbitration; provided, however, that the ultimate costs of any arbitration, including the cost of the record or transcripts thereof, if any, administrative fees, arbitrators' costs and arbitration fees, and all other fees involved, including reasonable attorney's and expert's fees, shall be borne by the Parties in the manner established by the arbitrators. The arbitrators shall be required to render their decision within thirty (30) days after the Parties have finished presenting the controversy to them. Temporary injunctive or other similar temporary equitable relief may be sought and obtained pending the arbitration of any matter pursuant to this Agreement.

25.2 The arbitrators shall consider customary and standard practices in the switchgear manufacturing business, and shall decide the issues presented to them by a majority vote of the arbitrators. All conclusions of law reached by the arbitrators shall be made in accordance with the internal substantive laws of the State of New York without regard to conflict of laws principles. Any award rendered by the arbitrators shall be accompanied by a written opinion setting forth the findings of fact and conclusions of law relied upon in reaching their decision. Any decision made by the arbitrators shall be final and binding on the Parties and there shall be no appeal from the written decision of the arbitrators; judgment may be entered on the decision of the arbitrators by any court having jurisdiction.

25.3 The Parties agree that the existence, conduct and content of any arbitration shall be kept strictly confidential and no Party shall disclose to any person any information about such arbitration, except as may be required by law or for financial reporting purposes in each Party's financial statements.

25.4 The provisions contained in this Article shall survive termination of this Agreement.

ARTICLE 26
WAIVER OF JURY TRIAL

EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HAS ELECTED TO MAKE THE DISPUTE RESOLUTION PROVISIONS OF ARTICLE 24 EXCLUSIVE AND FURTHER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE BREACH, TERMINATION OR VALIDITY OF THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) IT MAKES THIS WAIVER VOLUNTARILY AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS ARTICLE 26.

ARTICLE 27
AUTHORITY

Each Party, on behalf of itself and its Affiliates, hereto represents and warrants to the other Party that such Party has all requisite power and authority to execute and deliver this Agreement on its behalf and on behalf of its Affiliates, and to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by each Party hereto and constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, fraudulent conveyance and similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

ARTICLE 28
AUDIT RIGHTS

28.1 Buyer shall keep true and correct work papers, receipts and other data supporting its purchase requirements as set forth in Article 2 of this Agreement. At any time with reasonable notice to Buyer and without unreasonable disruption to Buyer's business, a third party representative of Seller shall have full and complete access to the books and records, including electronic records, reasonably related to the requirements described above. In addition, such representative will have reasonable opportunities during this time to discuss the computations with Buyer's employees and representatives that are familiar with such requirements. The purpose of this access to Buyer's books and records and employees is for Seller, at its discretion, to audit the fulfillment of such requirements. At no time will the third party representative take any information off-site or make any copies or other reproductions. The third party representative will not share its work papers but merely report a pass or fail and in the case of a fail, the impact of failure. The third party representative will be at Seller's expense.

28.2 To the extent that Seller has any objections to Buyer's determination of its fulfillment of the requirements described in Section 28.1 above, Seller shall provide a written notice to Buyer stating any such objections and the basis for such objections. If a notice of objection is delivered, the parties shall resolve the dispute pursuant to Articles 24 and/or 25 of this Agreement.

ARTICLE 29
MISCELLANEOUS

29.1 *Survival.* Regardless of the circumstances of termination or expiration of this Agreement, the provisions of Section 6.5 and Articles 12, 13, 14, 15, 18, 19, 23, 24 and 25 will survive the termination or expiration and continue according to their terms.

29.2 *Assignment.* This Agreement shall not be assignable by any Party hereto without the prior written consent of the other Party hereto, which consent shall not be unreasonably withheld; provided, however, that either Party may freely assign without such consent its rights and obligations under this Agreement to an Affiliate who is engaged in the business of electrical products manufacturing; provided further, that, the assignee of this Agreement expressly accepts

* A confidential portion of material has been omitted and filed separately with the Commission

this Agreement and assumes all of the obligations hereunder. In the event of such assignment, the assignor shall not be deemed to be released from its obligations under this Agreement even though the assignee has assumed all of the obligations of this Agreement unless and until the other Party to this Agreement has accepted in writing the replacement of assignor with assignee. In every instance, the assigning Party shall give the other Party written notice of intention to assign at least thirty (30) days in advance of the assignment.

29.3 *Notices.* All notices, requests, demands, waivers, and other communications made in connection with this Agreement shall be in writing and shall be (a) mailed by first-class or certified mail, return receipt requested, postage prepaid, (b) transmitted by hand delivery or reputable overnight delivery service or (c) sent by facsimile transmission, addressed as follows:

To Seller: Powell Industries, Inc.
8550 Mosley Drive
Houston, Texas 77075
Attention: Chief Financial Officer
Facsimile: [*]

With a copy to:

[*]
Winstead Sechrest & Minick P.C.
919 Milam Street, Suite 2400
Houston, Texas 77002
Facsimile: [*]

To Buyer: General Electric Company
Chief Executive Officer
GE Consumer & Industrial Products
Appliance Park, Bldg. 35
Louisville, KY 40225
Facsimile: [*]

With a copy to:

General Electric Company
General Counsel
GE Consumer Products
Appliance Park, Bldg. 2
Louisville, KY 40225
Facsimile: [*]

or, in each case, at such other address as may be specified in writing to the other parties hereto. All notices, requests, demands, waivers and other communications required to be given hereunder shall be effective when delivered by hand, when deposited in the United States mail, with proper postage for first-class or certified mail, prepaid or in the case of a facsimile, upon receipt of confirmation of transmission by the transmitting equipment.

- 29.4 *Amendments and Waivers.* The provisions of this Agreement may not be amended, changed, waived, extended, discharged or terminated orally but only by an instrument in writing, duly executed by both Parties.
- 29.5 *Applicable Law.* Except as otherwise provided herein, this Agreement and all rights and obligations hereunder, including matters of construction, validity and performance shall be governed by the laws of the State of New York, without giving effect to the principles of conflicts of laws thereof.
- 29.6 *Severability.* The invalidity, in whole or in part, of any of the articles or paragraphs of this Agreement will not affect the remainder of such article or paragraph or any other article or paragraph of this Agreement.
- 29.7 *Complete Agreement.* This Agreement, along with the Transaction Agreements and their Schedules and Exhibits, constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof, including any agreements and understandings, whether oral or written, between Seller or any of its Affiliates and Buyer or any of its Affiliates, including any of GE's operating components or divisions whether domestic or foreign, except that any existing supply agreements between Seller and GE (except Buyer) shall remain in full force and effect. This Agreement is intended, as of the Effective Date, to supersede and replace that certain Sourced Product Purchase Agreement by and between the Parties dated June 3, 2005.
- 29.8 *Expenses.* Unless otherwise stated herein or in any related agreement, each of the Parties shall bear and pay their respective expenses, costs and fees in connection with the transactions contemplated hereby, including the fees and expenses related to the preparation, execution and delivery of this Agreement and the fees and expenses of any attorneys, accountants or other professionals.
- 29.9 *Headings.* The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.
- 29.10 *Counterparts.* This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall together constitute one and the same instrument.
- 29.11 *No Third Party Beneficiaries.* Nothing in this Agreement shall confer any rights upon any person or entity other than the parties hereto and their respective successors and permitted assigns.
- 29.12 *Payment of Fees.* Notwithstanding anything in Articles 24 or 25 to the contrary, neither Party shall withhold any payment that is due pursuant to this Agreement and the amount for which is not otherwise in dispute.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first written herein.

SELLER:

POWELL INDUSTRIES, INC.

By: /s/ Don R. Madison
Don R. Madison,
Vice President and Chief Financial Officer

BUYER:

GENERAL ELECTRIC COMPANY

GE Consumer & Industrial

By: /s/ Paul J. Foody
Name: Paul J. Foody
Title: GM-Electrical Distribution

GENERAL ELECTRIC COMPANY

GE Energy

for the limited purposes set forth in the
first paragraph of this Agreement:

By: /s/ Robert J. Gilligan
Name: Robert J. Gilligan
Title: GM, GE Energy Services

* A confidential portion of material has been omitted and filed separately with the Commission

Exhibit A

[*]

* A confidential portion of material has been omitted and filed separately with the Commission

SCHEDULE 5.1(a)

[*]

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made this 19th day of April, 2006 (the "Effective Date"), between C&L Partnership, Ltd., a Texas Limited Partnership ("Landlord"), and Powell Industries, Inc., a Delaware Corporation ("Tenant") upon the following terms and conditions:

1. GRANTING CLAUSE. In consideration of the obligation of Tenant to pay rent as herein provided and in consideration of the other terms, covenants, and conditions hereof, Landlord leases to Tenant, and Tenant leases from Landlord, an approximate 9.87 acre tract (the "Land") and the building commonly designated 12301 Kurland Drive, Building B, Houston, Harris County, Texas, containing approximately 138,617 square feet, (the "Building") (the Land and the Building being collectively referred to herein as the "Premises,") to have and to hold for the Lease Term (as hereinafter defined), subject to the terms, covenants and conditions of this Lease, the Premises being further described on the site plan of the Premises being attached hereto as Exhibit "A", and being fully incorporated herein. Both parties acknowledge that the square footage calculation provided above is an estimate, and Tenant shall not have any right or remedy if the calculation is not accurate. Tenant has had the opportunity to review and accept the Premises and hereby waives any variances in the actual size of the Premises from the estimation provided herein.
2. TERM. The term of this Lease shall be for 87 months, beginning on May 1, 2006 (the "Commencement Date"), and ending on midnight on July 31, 2013 (the "Lease Term"). During the last 180 days of the Lease Term, Landlord shall have the right to place signs on the Premises advertising it for rent. Tenant shall not make any changes to the exterior of the Premises, install any exterior lights, decorations, or erect or install any signs, windows or door lettering without Landlord's prior written consent, which consent shall not be unreasonably withheld. Tenant is hereby granted the right, at its sole cost and expense, to install two exterior signs on the Building identifying the Tenant, provided that Tenant shall have obtained all permits and approvals from all applicable governmental authorities prior to commencing work on the signs. Upon vacation of the Premises, Tenant shall remove all signs and repair, paint, and/or replace the building facia surface to which its signs are attached. Tenant shall obtain all applicable governmental permits and approvals for sign and exterior treatments. Landlord shall permit Tenant and Tenant's contractors to enter the Premises (all at no charge prior to Tenant's occupancy of the Premises), from and after the Effective Date in order to begin Tenant's Work and/or install Tenant's furniture, fixtures and equipment within the Premises in accordance with Exhibit "C" hereto, and to occupy the Premises following completion of Tenant's Work, subject to all terms and provisions of this Lease other than the payment of Base Rent or Tenant's Additional Rent (which such payment obligations shall not commence until the Rent Commencement Date, all as hereinafter defined).
3. ACCEPTANCE. Tenant acknowledges that it has had the opportunity to fully inspect the Premises and (except for Landlord's repair and maintenance obligations provided in Section 9 of this Lease) accepts the Premises in its present "As Is" condition. Tenant acknowledges that Landlord has made no representation or warranty as to the suitability of the Premises for the conduct of Tenant's business, and Tenant waives any implied warranty that the Premises are suitable for Tenant's intended purposes. The taking of possession of the Premises shall be conclusive evidence that Tenant accepts the Premises and that the Premises were in good condition at the time possession was taken. In no event shall Landlord be liable for any defects in the

Premises or for any limitation on its use.

WAIVER. TENANT ACCEPTS THE PROPERTY IN ITS CURRENT CONDITION, "AS IS", "WHERE IS" AND "WITH ALL FAULTS" AND EXPRESSLY WAIVE AND DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE. FURTHER, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT AGREES THAT TENANT'S OBLIGATION TO PAY BASE RENT AND OTHER SUMS HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY BASE RENT AND SUCH OTHER SUMS, WITHOUT ABATEMENT, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF SUCH OBLIGATIONS, WHETHER EXPRESS OR IMPLIED.

4. RENT.

(A). Base Rent. Tenant shall pay to Landlord in advance, without demand, deduction or set-off, (except as may be expressly set forth in this Lease) monthly installments of Base Rent and Additional Rent on or before the first day of each calendar month, to Landlord, or its assigns, at Premier Property Services Inc. (c/o C&L Partnership), 9225 Katy Freeway, Suite 202, Houston, Texas 77024, or at such other address as Landlord may designate from time to time in writing, with the monthly Base Rent for the Lease Term being as follows:

Months 1-3:	\$ 0.00 per month
Months 4-63:	\$33,268.08 per month
Months 64-87:	\$34,654.25 per month

As used herein, the "Rent Commencement Date" shall be August 1, 2006. The Base Rent due and payable for the fourth month shall be due and payable in advance on the Effective Date and the Security Deposit (as hereafter defined) shall be due and payable on the Effective Date, with the Additional Rent for the fourth month being due on or before the first day of that fourth month. Payments of Base Rent for any fractional calendar month shall be prorated. If Tenant is delinquent in any monthly installment of Base Rent, Additional Rent or any other sums due hereunder, Tenant shall pay to Landlord on demand a late charge equal to 5% of such delinquent sum. The provision for such late charge shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as a penalty or as limiting Landlord's remedies in any manner. The obligation of Tenant to pay Base Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. Tenant shall have no right at any time to abate, reduce, or set-off any rent due hereunder, except where expressly provided in this Lease.

(B). Operating Expense Payments. During each month of the Lease Term, on the same date that Base Rent is due, Tenant shall pay Landlord an amount equal to 1/12 of the annual cost, as estimated by Landlord from time to time, the Additional Rent (as hereinafter defined). Payments thereof for any fractional calendar month shall be prorated. Landlord shall, at least 30 days prior to the Rent Commencement Date, notify Tenant of the amount of Tenant's Estimated Additional Rent (as hereinafter defined) for the remainder of calendar year 2006 and January 2007, and

thereafter Landlord shall notify Tenant of Tenant's Estimated Additional Rent for each successive calendar year following the Rent Commencement Date no later than October 31 of the previous calendar year. Notwithstanding the foregoing, Tenant acknowledges that Landlord has no basis by which to provide it with Tenant's Estimated Additional Rent for 2006 until the end of the calendar year, and therefore, Landlord will provide Tenant with the 2007 Tenant's Estimated Additional Rent on or before January 31, 2007. As used herein, "Tenant's Estimated Additional Rent" shall mean Landlord's reasonable advance estimate of Tenant's Additional Rent which will become due during the ensuing calendar year. Notwithstanding the foregoing or any other provision of this Lease, there shall be no Tenant's Estimated Additional Rent or Tenant's Additional Rent due hereunder until the Rent Commencement Date, the period from the Commencement Date through and including the day prior to the Rent Commencement Date, being a "free-rent" period. "Additional Rent" as used herein is defined as all additional costs assessed to Tenant herein above the Base Rent amount, including, without limitation, the Operating Expenses, Taxes, utilities, Landlord's insurance premiums and late rental charges.

The term "Operating Expenses" shall mean all expenses and disbursements of every kind (subject to the limitations set forth below) which Landlord incurs and pays in connection with the ownership, operation, and maintenance of the Premises, including but not limited to the following:

- (a) wages and salaries (including, but not limited to, management fees) of all employees, agents, consultants and other individuals or entities engaged in the operation, repair, replacement, and maintenance, of the Premises, including, but not by way of limitation, taxes, insurance and benefits relating thereto, but specifically excluding the wages or salaries of any of Landlord's officers or executives;
- (b) all supplies and materials used in the operation, maintenance, repair, and replacement of the Premises;
- (c) annual cost of all capital improvements made to the Premises which although capital in nature can reasonably be expected to reduce the normal operating costs of the Premises, as well as all capital improvements made in order to comply with any law now or hereafter promulgated by any governmental authority, as amortized over the useful economic life of such improvements as determined by Landlord in its reasonable discretion (without regard to the period over which such improvements may be depreciated or amortized for federal income tax purposes);
- (d) cost of any insurance or insurance related expense applicable to the Premises which is to be paid by Tenant pursuant to the terms herein but is paid by Landlord due to Tenant's failure to comply with the insurance provisions found in Section 11 herein;
- (e) all taxes and assessments and governmental charges whether federal, state, county or municipal, and whether they be by taxing or management districts or authorities presently taxing or by others, subsequently created or otherwise, and any other taxes and assessments attributable to the Premises, excluding, however, federal and state taxes on income (collectively, "Taxes"); if the present method of taxation changes so that in lieu of the whole or any part of any Taxes levied on the Premises, there is levied on Landlord a capital

tax directly on the rents received therefrom or a franchise tax, assessment, or charge based, in whole or in part, upon such rents for the Premises, then all such taxes, assessments, or charges, or the part thereof so based, shall be deemed to be included within the term “Taxes” for the purposes hereof;

(f) cost of service or maintenance contracts with independent contractors for the operation, maintenance, repair or replacement of the Premises (including, without limitation, window cleaning, exterior painting, mowing, trash collection, snow, ice, debris and waste removal, and landscape maintenance) and all expenses and costs (including legal fees and expenses) incurred for the benefit of the Premises (e.g., tax disputes); and

(g) cost of repairs assessed to Tenant pursuant to Section 9 herein.

(C). Notwithstanding anything in this Lease to the contrary, the following items shall be excluded from Operating Expenses:

(1) repairs or other work occasioned by (A) casualty that leads to repairs which are the responsibility of Landlord as provided herein and are covered by Landlord’s insurance required herein or (B) governmental authorities in eminent domain;

(2) any costs or expense incurred for the removal, abatement or remediation of hazardous or toxic materials in or about the Premises that is not the responsibility of Tenant as required herein;

(3) finder’s fees, real estate brokers’ commissions, marketing costs, advertising expenses or any other cost or expense (including without limitation costs of any inducements provided to tenants, tenant-finish allowances, costs incurred for materials and labor in connection with multi-tenant floors corridor configurations, and moving expenses) incurred in connection with the sale, leasing, financing, re-financing, attempted sale, attempted leasing, attempted financing or attempted re-financing of the Premises or any part thereof;

(4) fees for professional services including legal, architectural, engineering, accounting, appraisal that (a) are not directly related to the management, operation, repair and maintenance of the Premises, or (b) are related to the sale, leasing, attempted sale or attempted leasing of the Premises or any part thereof, including but not limited to legal and accounting costs incurred in connection with (i) defending any lawsuits with any mortgagee of the Landlord, (ii) selling, syndicating, financing, mortgaging or hypothecating any of the Landlord’s interest in the Premises, (iii) disputes or negotiations between Landlord and its employees (if any) not engaged in the Premises operation, and (iv) disputes or negotiations with Premises management personnel or other employees,

(5) depreciation and amortization;

(6) payment of principal and/or interest on debt or amortization payments on any mortgage or mortgages executed by Landlord covering Landlord’s property and rental under any ground or underlying leases or lease, ground lease payments, charges commonly referred to as “points” or other loan charges and fees in connection with any financing or refinancing associated with the

Premises, the land it is located on or with respect to all or any part of either;

- (7) Landlord's organizational, partnership and other general administrative overhead expenses for services not performed for the Premises;
- (8) the cost of any judgment, settlement or arbitration award resulting from any tort liability (other than repair, maintenance or other costs that are otherwise proper Operating Expense hereunder);
- (9) advertising and promotional expenditures, and costs of signs in or on the Premises identifying the owner of the building (provided however that nothing contained in the foregoing shall imply that Landlord has any right to place or maintain any signage in violation of the specific terms of this Lease);
- (10) overhead and profit increment paid to subsidiaries or affiliates of Landlord for services on or to the Premises, to the extent that the costs of such services exceed competitive costs for such services rendered by unaffiliated persons or entities of similar skill, competence and experience in an arms length transaction;
- (11) Any cost of insurance incurred by Landlord, except as to reimbursement of Landlord for Landlord's purchase of policies or payment of premiums or deductibles that Tenant is required to purchase pursuant to the terms of this Lease;
- (12) repair costs resulting from defects in workmanship, materials, or equipment completed by Landlord to the extent Landlord failed to act as a prudent landlord in the selection or supervision of the person that performed the applicable work; and
- (13) charitable contributions or donations.

(D). Not more than 90 days after the end of the calendar year in which the Rent Commencement Date occurs and of each calendar year thereafter during the Term of this Lease, Landlord shall provide Tenant a statement showing the Operating Expenses for said calendar year, and a statement comparing Tenant's Estimated Additional Rent paid by Tenant with Tenant's Additional Rent. In the event that Tenant's Estimated Additional Rent paid by Tenant exceeds Tenant's Additional Rent for said calendar year, Landlord shall pay Tenant an amount equal to such excess (in the form of a credit against rentals next due, or in the form of a check delivered to Tenant within 30 days following Landlord's delivery of such statement, at Landlord's option). In the event that the Tenant's Additional Rent exceeds Tenant's Estimated Additional Rent paid by Tenant for said calendar year, Tenant shall pay Landlord, within 30 days of receipt of the statement, an amount equal to such difference.

If within two years following Landlord's delivery of a Landlord's statement for a calendar year, Landlord does not deliver to the Tenant a notice referring in reasonable detail to one or more errors in such statement, it shall be deemed conclusively (subject to any audit adjustments which may be made in the event Tenant has elected to audit such statement) that the information set forth in such statement for such calendar year is correct. Tenant shall have the right to request,

review and audit, at Tenant's expense, Landlord's books and records regarding the determination of Tenant's Additional Rent for the calendar year in question only upon written notice to Landlord and scheduling an appointment in advance. Such notice must be delivered within three months following Landlord's delivery of Landlord's annual statement for the calendar year in question to Tenant, or such right shall be waived with respect to such year. Any auditor who will perform such audit must not be an employee of Tenant, but must be a certified public accountant from a reputable accounting firm reasonably acceptable to Landlord or a reputable operating expense auditing firm reasonably acceptable to Landlord. Tenant shall submit its audit results and any objections to Landlord's statement of Tenant's Additional Rent within 90 days after Landlord's delivery of Landlord's annual statement. Thereafter, the parties shall proceed in good faith to attempt to resolve any dispute regarding Landlord's statement within 45 days following receipt of Tenants' audit results. In the event that Landlord and Tenant confirm pursuant to Landlord's statement of Tenant's Additional Rent or Landlord's acceptance or verification of the results of Tenant's audit, that Tenant's Additional Rent paid by Tenant exceeds actual Tenant's Additional Rent owed by Tenant for such calendar year, Landlord shall pay Tenant an amount equal to such excess at Landlord's option, by either giving a credit against rentals next due, if any, or by direct payment to Tenant within 30 days of the date of resolution. In addition, if Tenant's third-party audit reflects that Tenant overpaid Tenant's Additional Rent by more than 5% for such calendar year, and Landlord accepts Tenant's audit conclusions or confirms same as a result of an independent audit or review of the disputed items by a certified public accountant conducted at Landlord's expense, Landlord shall also reimburse Tenant for the reasonable cost of Tenant's audit. The provisions of this Section shall survive the expiration of the Term and any renewals thereof.

5. USE.

(A). Permitted Use. The Premises shall be used only for the purpose of light industrial manufacturing, assembly, general warehouse storage, testing and related office uses, and for such other uses as are related thereto ("Tenant's Permitted Use"). Tenant will use the Premises in a careful, safe and proper manner and will not commit waste thereon. Tenant, at its sole expense, shall comply with all laws (including, without limitation, Environmental Requirements, as defined herein, and laws regarding access for handicapped or disabled persons), ordinances and regulations, and all declarations, covenants, and restrictions, applicable to Tenant's use or occupation of the Premises, and with all governmental orders and directives of public officers which impose any duty or restriction with respect to the use or occupation of the Premises. Landlord makes no representation that the property is currently permitted for Tenant's Permitted Use, and Tenant shall be solely responsible for obtaining all necessary governmental permits allowing for its use of the Premises, including, but not by way of limitation, any necessary certificates of occupancy. Tenant shall be permitted to store racking and shelving outside the Building for the first 12 months of the Lease Term, provided there shall be no materials, equipment, inventory, supplies or any other personal property stored on the racking and/or shelving while it is outside the Building. All racking and shelving shall be removed from outside the Building by the end of April 2007, and Tenant's shall comply with all applicable governmental regulations regarding its outside storage during the 12-month period discussed herein.

(B). Prohibited Use. Tenant shall not take any action that would constitute a nuisance or would unreasonably disturb, interfere with, or endanger Landlord, neighboring property owners or

tenants, or the Premises. Tenant will not use or permit the Premises to be used for any purpose or in any manner that would void Tenant's or Landlord's insurance, increase the insurance risk, or cause the disallowance of any sprinkler credits. Outside storage is prohibited without Landlord's prior written consent. No use shall be made of the Premises that would constitute the Premises as a place of public accommodation under the Americans with Disabilities Act or similar state statutes or local ordinances or any regulations promulgated thereunder, all as may be amended from time to time.

6. UTILITIES. Tenant shall pay for all water, gas, electricity, heat, light, power, telephone, sewer, sprinkler services, refuse and trash collection, and other utilities and services used on the Premises, all maintenance charges for utilities, and any storm sewer charges or other similar charges for utilities imposed by any governmental entity or utility provider, together with any taxes, penalties, surcharges or the like pertaining to Tenant's use of the Premises. Landlord shall have the right to cause at Landlord's expense any of said services to be separately metered or charged directly to Tenant by the provider. Tenant shall pay its share of all charges for jointly metered utilities based upon consumption, as reasonably determined by Landlord. Landlord shall not be liable for any interruption or failure of utilities or any other service to the Premises and no such interruption or failure shall result in the abatement of rent hereunder or otherwise permit Tenant to terminate this Lease. Tenant acknowledges that Landlord will be making repairs to the water and wastewater lines which service the Premises by converting the service from private water system to the city of Houston's water and wastewater system. Landlord shall not be liable for any interruption or failure of the utilities during the conversion, and Landlord will notify the Tenant when the conversion is complete so that Tenant may transfer its billing to the necessary party for payment of the utilities. Landlord agrees to use reasonable efforts to complete the conversion in a reasonable and timely manner and not unreasonably interfere with Tenant's use of the Premises.

7. REAL ESTATE TAXES. Tenant shall reimburse Landlord for all Taxes that accrue against the Premises during the Lease Term. Landlord shall provide tenant with a copy of the tax appraisal every year of the lease term within 15 days of Landlord's receipt of such appraisal. Tenant shall be entitled to confer with Landlord as to the appraised value of the Premises and make recommendations regarding the accurateness of the appraisal. Landlord shall have the sole right to contest by appropriate legal proceedings the amount, validity, or application of any Taxes or liens thereof. All ad valorem taxes, capital levies or other taxes assessed or imposed on Landlord upon the rents payable to Landlord under this Lease and any franchise tax, any excise, transaction, sales or privilege tax, assessment, levy or charge measured by or based, in whole or in part, upon such rents from the Premises or any portion thereof shall be paid by Tenant to Landlord monthly in estimated installments or upon demand, at the option of Landlord, as Additional Rent. If any such tax or excise is levied or assessed directly against Tenant, then Tenant shall be responsible for and shall pay the same at such times and in such manner as the taxing authority shall require. Tenant shall be liable for all taxes levied or assessed against any personal property or fixtures placed in the Premises, whether levied or assessed against Landlord or Tenant. Notwithstanding any of the foregoing, nothing herein shall obligate Tenant to pay the following: (A) income, excess profits, revenue, franchise or other taxes of Landlord which are determined on the basis of Landlord's net income or net worth (unless such taxes are in lieu of or a substitute for any other tax, assessment or other charge upon or with respect to the Premises which, if it were in effect, would be payable by

Tenant under the provisions hereof or by the terms of such tax, assessment or other charge), (B) any estate, inheritance, succession, capital levy, transfer, gift or similar tax imposed on Landlord or any other owner of the fee of the Premises, (C) any capital gains tax imposed on Landlord in connection with the sale of the Premises to any person or entity, (D) any income, profits, or revenue tax, assessment, or charge imposed upon the Base Rent or Additional Rent or other benefit received by Landlord under this Lease by any governmental authority, or (E) interest, penalties, and fines on any of the foregoing.

8. LANDLORD'S INSURANCE. Tenant shall directly pay, at its sole cost and expense, for all fire and casualty insurance on the Premises as required herein. Landlord shall have no responsibility to pay for any policies on the Property during the term of this Lease.

9. REPAIRS.

(A). Landlord's Repairs. Landlord shall maintain and repair, at Landlord's expense, the structural soundness of the foundation and exterior walls of the Building of which the Premises are a part in good repair, reasonable wear and tear and casualty losses and damages caused by Tenant excluded. The term "walls" as used in this Section 9 shall not include windows, glass or plate glass, doors or overhead doors, special store fronts, dock bumpers, dock plates or levelers, or office entries. Tenant shall immediately give Landlord written notice of any repair required by Landlord pursuant to this Section 9, after which Landlord shall have a reasonable opportunity to repair. Notwithstanding the foregoing, if the Landlord's repairs are necessitated due to the negligence or omissions of Tenant, its employees, invitees, contractors, agents or assigns, then Tenant shall reimburse Landlord for the full cost of such repairs within 15 days of receipt of written notice from Landlord. Additionally, Landlord shall maintain, at Tenant's expense, the roof, parking lots and utility lines located on the Land and on the exterior of the Building to their connection with the public utility line. These costs will be assessed as part of the Operating Expenses reimbursed by Tenant pursuant to Section 4(B) herein.

Landlord shall, prior to the Commencement Date, inspect the roof and electrical, plumbing and HVAC systems serving the Premises, and Landlord shall make any repairs, at its sole cost and expense, as necessary, to the roof and electrical, plumbing and HVAC systems serving the Premises as soon as is reasonably possible following the inspections. Additionally, Landlord will make any repairs necessary, at its sole cost and expense, unless such repairs are due to the acts or omissions of Tenant, its employees, contractors, agents or invitees, to the roof and electrical, plumbing or HVAC systems during the first 120 days of the Lease Term.

(B). Tenant Repairs. Except only those repairs for which Landlord is responsible under this Section 9, Tenant, at Tenant's cost and expense, shall maintain in good repair and condition all parts of the Premises and Tenant shall additionally maintain the lighting, electrical systems, and plumbing lines and equipment located within the Building on the Premises. In the event Tenant fails or otherwise refuses to maintain the aforementioned as required by this Section, Landlord shall have the right, but not the obligation to perform such maintenance, and Tenant shall reimburse Landlord for all such costs and expenses, except to the extent such repairs and replacements are covered by insurance on the Premises under policies naming Landlord as the insured. Tenant shall repair and pay for any damage to the Premises caused by Tenant and Tenant's employees, agents, or invitees, or caused by Tenant's default hereunder. Tenant shall

maintain and repair the Premises in a manner consistent with other similar buildings of the class of the Premises in the Houston, Texas area. Landlord shall have the right to review and inspect the Tenant's repairs and maintenance records for the purpose of determining the Tenant's compliance with its obligations herein. In the event Landlord reasonably determines that the Premises is not being properly maintained or repaired then Landlord may require Tenant to make such repairs or maintain the Premises in accordance with the terms hereof.

(C). HVAC Maintenance. Tenant shall enter annual, written maintenance contracts with competent, licensed contractors, reasonably approved by Landlord. Such contracts shall include, and Tenant shall require that such contractors provide: (i) inspection, cleaning and testing at least every 120 days (or more frequently if required by applicable Law or if reasonably required by Landlord), (ii) any servicing, maintenance, repairs and replacements of filters, belts or other items determined to be necessary or appropriate as a result of such inspections and test, or by the manufacturers= warranty, services manual or technical bulletins or otherwise required to ensure proper and efficient operation, including emergency work, (iii) a detailed record of all services performed, and (iv) an annual service report at the end of each calendar year. Such maintenance contracts represent part of Tenant's obligations under this Section, and shall not be deemed to limit Tenant's general obligations to keep any HVAC equipment and other systems and equipment hereunder in good working order, repair and condition.

(D). End of Lease Term. Upon termination of the Lease Term or earlier termination of Tenant's right of possession, Landlord may, by notice to Tenant, require Tenant at Tenant's expense to remove any or all Trade Fixtures (as hereinafter defined) and/or any or all Tenant Improvements and to repair any damage caused by such removal. Any Trade Fixtures, Tenant Improvements, or other property not so removed by Tenant as permitted or required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and disposition of such property. All Tenant Improvements except those that Landlord requires Tenant to remove shall remain in the Premises as the property of Landlord.

(E). All obligations of Tenant hereunder not fully performed as of the termination of the Lease Term shall survive the termination of the Lease Term, including without limitation, all payment obligations with respect to all obligations concerning the condition and repair of the Premises. Upon the termination of the Lease Term and prior to Tenant vacating the Premises, Tenant shall pay to Landlord any amount reasonably estimated by Landlord as necessary to put the Premises, including without limitation, all heating and air conditioning systems and equipment serving the Premises, in good condition and repair, reasonable wear and tear excepted. All such amounts shall be used and held by Landlord for payment of such obligations, the Tenant being liable for any additional costs therefore upon demand by Landlord.

10. ASSIGNMENT AND SUBLEASING

(A). General. Without Landlord's prior written consent, Tenant shall not assign this Lease or sublease the Premises or any part thereof or mortgage, pledge or hypothecate its leasehold interest or grant any concession or license within the Premises and any attempt to do any of the foregoing shall be void and of no effect. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law and shall bind any

permitted assignee or sublessee. For purposes of this Section, a transfer of 10% of the ownership interests of Tenant shall be deemed an assignment of this Lease. Any consent to any such assignment or other transfer shall be at the complete discretion of Landlord, and Landlord's consent to an assignment, subletting or other transfer shall be either given or denied in writing within 30 days of Landlord's receipt of Tenant's written request to assign or sublet the Premises, provided, however, that Landlord's consent to a subletting of the Premises shall not be unreasonably withheld or conditioned. If Landlord consents to a proposed assignment, subletting or other transfer, then the proposed transferee shall deliver to Landlord a written agreement whereby it assumes the Tenant's obligations hereunder. Landlord's consent to any assignment, subletting or other transfer shall not waive Landlord's rights as to any subsequent assignment, subletting or transfer. Tenant shall reimburse Landlord for all of Landlord's reasonable out-of-pocket expenses including, without limitation, reasonable attorney's fees actually incurred, in connection with any assignment, sublease or other transfer. Notwithstanding any assignment, subletting or other transfer, Tenant and any guarantor or surety of Tenant's obligations under this Lease shall at all times remain fully responsible and liable for the payment of the rent and for compliance with all of Tenant's other obligations under this Lease (regardless of whether Landlord's approval has been obtained for any such assignments or sublettings).

(B). Affiliate Transfers. Notwithstanding the terms provided above, Tenant may assign or sublet the Premises or any part thereof to any entity controlling Tenant, controlled by Tenant or under common control with Tenant (a "Tenant Affiliate") without the prior written consent of Landlord. In such event, Tenant must give Landlord at least ten days prior written notice and execute and deliver to Landlord such instruments as Landlord may reasonably request with respect to any such assignment or subletting.

(C). Landlord Transfer. Landlord may transfer, in whole or in part, the Premises and any of its rights under this Lease. Upon Landlord's assignment of its rights and liabilities under this Lease, then Landlord shall thereby be released from any further obligations hereunder.

11. TENANT'S INSURANCE.

(A). Tenant's Insurance. Tenant, at its own cost and expense, shall maintain during the Lease Term a policy or policies of: fire and extended coverage insurance covering the replacement cost of all property and improvements, installed or placed in the Premises by Tenant; worker's compensation insurance with no less than the minimum limits required by law; employer's liability insurance with such limits as required by law; commercial liability insurance, with liability limits of not less than \$3,000,000 combined single limit per occurrence (together with such umbrella coverage as Landlord may require) for property damage, personal injuries, or deaths of persons occurring in or about the Premises; and, if appropriate for Tenant's operations, pollution liability insurance with such limits as Landlord may reasonably require; provided, however, that Landlord may from time to time reasonably require an increase in the policy amount of the pollution liability insurance. The commercial liability policies shall name Landlord as an additional insured, insure on an occurrence and not a claims-made basis, be issued by insurance companies which are reasonably acceptable to Landlord, not be cancelable unless 30 days prior written notice shall have been given to Landlord, and provide primary coverage to Landlord (any policy issued to Landlord providing duplicate or similar coverage shall be deemed excess over Tenant's policies).

(B). Fire/Casualty Insurance. Tenant, at its own cost and expense, shall maintain fire and lightning with extended coverage insurance covering the replacement cost of the Building and Premises and against such other risks as Landlord's lender(s) may require, all in an amount equal to the full insurable value of the Building and all improvements on the Premises, such insurance to be written in form and with companies reasonably approved by Landlord and approved by its lender(s). The policy shall be made payable to Landlord and to American First National Bank, 9999 Bellaire Boulevard, Houston, Texas 77036 (the "Lender") pursuant to the standard Texas mortgagee clause, without contribution. Such policies shall provide, by way of riders, endorsements or agreements therein and that no such policy shall be cancelled, endorsed or amended to any extent unless the issuer thereof shall have first given Landlord and the Lender at least 30 days prior written notice. The Lender may be changed from time to time and Tenant shall have the policies required in this Section (B) amended as may be requested by the Lender or any new lender as the case may be.

(C). All policies or certificates thereof required herein in Sections (A) and (B) shall be delivered to Landlord by Tenant prior to Tenant entering the Premises, whether before or on the Commencement Date as provided for herein, and at least 10 days prior to each renewal of said insurance. Tenant shall be solely responsible for the payment of all premiums and deductibles required pursuant to any of the policies obtained herein. If Tenant fails to obtain any of the policies as required herein, Landlord may purchase such insurance at Tenant's expense, and the cost of the insurance purchased by the Landlord shall be reimbursed by Tenant following written notice from Landlord, as Additional Rent.

12. TENANT IMPROVEMENTS AND TRADE FIXTURES

(A). Tenant Improvements. Any alterations, additions, or improvements made by or on behalf of Tenant to the Premises ("Tenant Improvements") shall be subject to Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. All Tenant Improvements shall comply with insurance requirements and with applicable law, ordinances, and regulations, including, without limitation and to the extent applicable, laws and regulations regarding removal or alteration of structural or architectural barriers to handicapped or disabled persons (and Tenant shall construct at its expense any alteration required by such laws or regulations, as they may be amended). All plans and specifications for any Tenant Improvements shall be submitted to Landlord for its approval, such approval shall not be unreasonably withheld, conditioned or delayed, and Landlord may thereafter monitor construction. Landlord may post on and about the Premises notices and give notices that Landlord shall not be liable on account of any damage or claim in connection with such construction, and Tenant shall provide Landlord with the identities and mailing addresses of all persons performing work or supplying materials, prior to beginning such construction. Landlord's right to review plans and specifications and monitor construction shall be solely for its own benefit, and Landlord shall have no duty to see that such plans and specifications or construction comply with applicable laws, codes, rules, or regulations. At Landlord's request, Tenant shall obtain payment and performance bonds for any Tenant Improvements which bonds shall be delivered to Landlord prior to commencement of work on the Tenant Improvements and shall be in form and substance satisfactory to Landlord. Upon completion of any Tenant Improvements, Tenant shall deliver to Landlord sworn statements setting forth the names of all contractors and subcontractors who did work on the Tenant

Improvements and final lien waivers from all such contractors and subcontractors.

(B). Trade Fixtures. Tenant, at its own cost and expense, may erect such shelves, bins, machinery and trade fixtures (collectively "Trade Fixtures") as it desires provided that such items do not alter the basic character of the Premises, do not overload or damage the same, and may be removed without material injury to the Premises, and provided that the construction, erection, and installation thereof complies with all applicable governmental laws, ordinances, regulations and with Landlord's requirements. Subject to the terms of this Lease, upon the expiration of the Lease Term, Tenant shall remove its Trade Fixtures, inventory, office supplies, shelves, furniture, signs, bins, machinery, equipment and all other personal property, and shall repair any damage caused by such removal, by the last day of the Lease Term. The shelving and racking systems in the Premises prior to the Effective Date are all deemed the property of Tenant, and shall be removed in accordance with the provisions of this Section at the end of the lease term.

13. FIRE AND CASUALTY DAMAGE.

(A). Notice. If at any time during the Lease Term, the Premises is damaged by fire or other casualty, Landlord may elect upon notice to Tenant delivered as soon as practicable but not later than 90 days after the date of such loss to terminate this Lease or to repair and reconstruct the damaged improvements to substantially the same condition in which they existed immediately before the damage, except that Landlord shall not be required to repair and reconstruct any fixtures, additions, or other improvements that Tenant is required to insure under Section 11. If Landlord's notice to Tenant provides that the repairs cannot be completed within 6 months from the date of Landlord's election to repair, then Tenant may terminate this Lease by written notice to Landlord (provided such notice is given within 20 days after the Landlord's notice was provided to the Tenant).

(B). Landlord's Repair. If Landlord elects to repair and reconstruct the damaged improvements, the repair and replacement will be made within 6 months from the date of Landlord's election to repair and reconstruct, subject to delays arising from the collection of insurance proceeds or from Force Majeure (hereinafter defined) events, and this Lease shall remain in full force and effect provided that the Lease Term will be extended for a time equal to the period beginning on the date the loss or damage was suffered until the repairs and replacement are completed. Tenant at Tenant's expense shall promptly perform, subject to delays arising from the collection of insurance proceeds, all repairs or restoration not required to be done by Landlord and shall promptly reenter the Premises and commence doing business in accordance with this Lease. Tenant may terminate this Lease by notice to Landlord (given within 10 days after the 6-month period) if Landlord's repair or replacement have not been substantially completed within such 6-month period plus any period by which such repair or replacement was delayed by the collection of insurance proceeds, any act or neglect by Tenant or its contractors or Force Majeure events. If Landlord elects to repair and/or reconstruct the damaged improvements, Tenant shall pay to Landlord the amount of the commercially reasonable deductible under Landlord's insurance policy within 10 days after presentment of Landlord's invoice. If the damage involves other premises, Tenant shall pay the portion of the deductible in the proportion that the cost of the repair and replacement of the Premises bears to the total cost of repair and replacement, as determined by Landlord. As used herein, "Force Majeure" is defined as any conditions or events causing a delay in performance including without limitation delays caused by strikes, lockouts, labor disputes, acts of God,

inability to obtain labor or materials or reasonable substitutes therefor, enemy or hostile governmental actions, civil commotion, fire or other casualty, and any other causes beyond the reasonable control of Landlord.

(C). **Base Rent Abatement.** If the Premises or a portion thereof is not usable to substantially the same extent and for substantially the same purposes as Tenant used the Premises prior thereto as a result of damage by fire or other casualty to the Premises or building in which the Premises are located, and Landlord elects to repair and/or reconstruct the damaged improvements, Base Rent shall be abated from the date of such damage or destruction until substantial completion of repairs and reconstruction in the proportion which the area of the Premises which is not usable by Tenant bears to the total area of the Premises. Such abatement shall be the sole remedy of Tenant, and to the extent permitted by applicable law, and except as provided herein, Tenant waives any right to terminate the Lease by reason of damage or casualty loss.

14. **SUBORDINATION.** This Lease and Tenant's interest and rights hereunder are and shall be subject and subordinate at all times to the lien of any mortgage, now existing or hereafter created on or against the Premises, and all amendments, restatements, renewals, modifications, consolidations, refinancing, assignments and extensions thereof, without the necessity of any further instrument or act on the part of Tenant except for the SNDA discussed herein. Tenant agrees, at the election of the holder of any such mortgage, to attorn to any such holder. Tenant agrees upon demand to execute, acknowledge and deliver such instruments, confirming such subordination and such instruments of attornment as shall be requested by any such holder. The term "mortgage" whenever used in this Lease shall be deemed to include deeds of trust, security assignments and any other encumbrances, any reference to the "holder" of a mortgage shall be deemed to include the beneficiary under a deed of trust.

Within 45 days after the Effective Date of this Lease, Landlord shall cause any existing holder of the deed of trust lien against the Premises to enter into a subordination, non-disturbance and attornment agreement ("SNDA") with Tenant in a form as proposed by the existing holder of the deed of trust lien and reasonably acceptable to the Tenant. The proposed form of the SNDA shall be provided to the Tenant as within fifteen (15) days of the Effective Date, and upon its reasonable approval, Tenant will promptly execute such SNDA upon receipt of same after it is executed by the existing holder of the deed of trust lien against the Premises.

15. **CONDEMNATION.** If the whole or any substantial part of the Premises should be taken for any public or quasi-public use under governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof (a "Taking" or "Taken"), and the Taking would prevent or materially interfere with the permitted use of the Premises or in Landlord's reasonable judgment, would materially interfere with or impair its ownership or operation of the Premises, then upon written notice by Landlord, this Lease shall terminate and Base Rent and Additional Rent shall be apportioned as of said termination date, and no further Base Rent shall be due hereunder. If 25% or more of the Building should be Taken and, in Tenant's reasonable judgment, the Taking would prevent or materially interfere with Tenant's permitted use of the Premises, then Tenant may, upon written notice terminate this Lease, provided such written notice is provided within 30 days of Tenant's notice of the condemnation. If the Tenant provides the proper written notice and Landlord reasonably determines that 25% or more of the Building is

being Taken, then Base Rent and Additional Rent shall be apportioned as of said termination date, and no further Base Rent or Additional Rent shall be due hereunder.

If part of the Premises shall be Taken and this Lease is not terminated as provided above, the Base Rent payable hereunder during the unexpired Lease Term shall be reduced to such extent as may be fair and reasonable under the circumstances. In the event of any such Taking, Landlord shall be entitled to receive the entire price or award from any such Taking without any payment to Tenant, and Tenant hereby assigns to Landlord Tenant's interest, if any, in such award. Tenant shall have the right, to the extent that same shall not diminish Landlord's award, to make a separate claim against the condemning authority (but not Landlord) for such compensation as may be separately awarded or recovered by Tenant for moving expenses, damage to Tenant's Trade Fixtures, and the value of the unexpired term of this Lease or Tenant's leasehold interest, if a separate award for such items is made to Tenant.

16. LANDLORD'S LIEN/SECURITY INTEREST. Intentionally Omitted.

17. EVENTS OF DEFAULT/LANDLORD'S REMEDIES. Each of the following events shall be an event of default ("Event of Default") by Tenant under this Lease:

- (1) Tenant shall fail to pay any installment of Base Rent or any other payment required herein when due, and such failure shall continue for a period of 10 days from the date of Landlord's written notice of such amount being past due pursuant to a Lease Term;
- (2) Failure of Tenant to perform any of its other obligations under this Lease (other than a default in payment, which is covered in clause (1) above); provided, however, that in the event of such failure, Tenant shall be afforded a period of 30 days following Tenant's receipt of written notice (or such longer period therefor provided elsewhere in this Lease) in which to cure such failure. If such failure cannot reasonably be cured within such period due to factors beyond Tenant's reasonable control, the length of such cure period shall be extended for the period reasonably required therefor (but in no event longer than 60 days from the date of receipt of Landlord's notice) if Tenant commences curing such failure within such 30 day period and continues the curing thereof with reasonable diligence and continuity, so long as Tenant delivers to Landlord within the initial 30 day period notice that such failure cannot reasonably be cured within said 30 day period and specifies in such notice the estimated time in which said failure shall be cured, which may in no event exceed 60 days;
- (3) Tenant or any guarantor or surety of Tenant's obligations hereunder shall (A) become insolvent; (B) admit in writing its inability to pay its debts; (C) make a general assignment for the benefit of creditors; (D) commence any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors or seeking

appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property; or

- (4) Any case, proceeding or other action against Tenant or any guarantor or surety of Tenant's obligations hereunder shall be commenced seeking (A) to have an order for relief entered against it as debtor or to adjudicate it a bankrupt or insolvent; (B) reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors; or (C) appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and such case, proceeding or other action results in the entry of an order for relief against it which it is not dismissed within 90 days of its filing or entry.

LANDLORD'S REMEDIES.

(A). General. Upon each occurrence of an Event of Default and so long as such Event of Default shall be continuing, Landlord may at any time thereafter at its election: (i) terminate this Lease or Tenant's right of possession, but Tenant shall remain liable as hereinafter provided; (ii) alter locks or other security devices at the Premises, without notice to Tenant, to deprive Tenant access thereto and Landlord shall not be required to provide a new key or right of access to Tenant; and/or (iii) pursue any remedies provided for under this Lease or at law or in equity. Upon the termination of this Lease or termination of Tenant's right of possession, it shall be lawful for Landlord, without formal demand or notice of any kind, to re-enter the Premises by summary dispossession proceedings or any other action or proceeding authorized by law and to remove Tenant and all persons and property therefrom. If Landlord re-enters the Premises, Landlord shall have the right to keep in place and use, or remove and store, all of the furniture, fixtures and equipment at the Premises.

(B). Lease Termination. If Landlord terminates this Lease, Landlord may recover from Tenant the sum of: all Base Rent and all other amounts accrued hereunder to the date of such termination; the cost of reletting the whole or any part of the Premises, including without limitation brokerage fees and/or leasing commissions incurred by Landlord, and costs of removing and storing Tenant's or any other occupant's property, repairing, altering, remodeling, or otherwise putting the Premises into condition acceptable to a new tenant or tenants, and all reasonable expenses incurred by Landlord in pursuing its remedies, including reasonable attorneys' fees and court costs; and the excess of the then present value of the Base Rent and other amounts payable by Tenant under this Lease as would otherwise have been required to be paid by Tenant to Landlord during the period following the termination of this Lease measured from the date of such termination to the expiration date stated in this Lease, over the present value of any net amounts which Tenant establishes Landlord can reasonably expect to recover by reletting the Premises for such period, taking into consideration the availability of acceptable tenants and other market conditions then affecting leasing. Such present values shall be calculated at a discount rate equal to the 90-day U.S. Treasury bill rate at the date of such termination. Landlord agrees to use reasonable efforts to mitigate its damages. Landlord will have satisfied the duty to mitigate and will have used objectively reasonable efforts to relet the Premises if, within 45 days of the abandonment of the Premises by Tenant (or removal of Tenant from the Premises) Landlord (1) places a "for lease"

sign at the Premises; (2) places the Premises on Landlord's inventory of available space; (3) makes Landlord's inventory available to area brokers; and (4) shows the Premises to prospective tenants who request to see it. Landlord's efforts to mitigate shall not be required to exceed such efforts as Landlord generally uses to lease other space owned by Landlord and available for rent. Landlord shall not be required to take any instruction or advice given by Tenant regarding reletting the Premises, and Landlord shall not be required to accept any substitute tenant who does not lease the entire Premises upon terms and conditions satisfactory to Landlord in its reasonable discretion.

(C). Possession Termination. If Landlord terminates Tenant's right of possession (but not this Lease), Landlord may, but shall be under no obligation to, relet the Premises for the account of Tenant for such rent and upon such terms as shall be satisfactory to Landlord without thereby releasing Tenant from any liability hereunder and without demand or notice of any kind to Tenant. For the purpose of such reletting Landlord is authorized to make any repairs, changes, alterations, or additions in or to the Premises as Landlord deems reasonably necessary or desirable. If the Premises are not relet, then Tenant shall pay to Landlord as damages a sum equal to the sum of the rental reserved in this Lease for such period or periods, plus the cost of recovering possession of the Premises (including attorneys' fees and costs of suit), the unpaid Base Rent and other amounts accrued hereunder at the time of repossession, and the costs incurred in any attempt by Landlord to relet the Premises. If the Premises are relet and a sufficient sum shall not be realized from such reletting (after first deducting therefrom, for retention by Landlord, the unpaid Base Rent and other amounts accrued hereunder at the time of reletting, the cost of recovering possession (including without limitations brokerage fees and leasing commissions) and the cost of collection of the rent accruing therefrom) to satisfy the rent provided for in this Lease to be paid, then Tenant shall immediately satisfy and pay any such deficiency. Any such payments due Landlord shall be made upon demand therefor from time to time and Tenant agrees that Landlord may file suit to recover any sums falling due from time to time. Tenant shall not be entitled to the excess of any consideration obtained by reletting over the Base Rent due hereunder. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect in writing to terminate this Lease for such previous breach.

(D). No Waiver. Exercise by Landlord of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises and/or a termination of this Lease by Landlord, whether by agreement or by operation of law, it being understood that such surrender and/or termination can be effected only by the written agreement of Landlord.

18. HOLDING OVER. If, for any reason, Tenant retains possession of the Premises after the termination of the Lease Term, unless otherwise agreed in writing, such possession shall be subject to immediate termination by Landlord at any time, and all of the other terms and provisions of this Lease (excluding any expansion or renewal option or other similar right or option) shall be applicable during such holdover period, except that Tenant shall pay Landlord from time to time, upon demand, as Base Rent for the holdover period, an amount equal to 150% the Base Rent in effect on the termination date, computed on a monthly basis for each month or part thereof during such holding over. All other payments shall continue under the terms of this Lease. In addition, Tenant shall be liable for all damages incurred by Landlord as a result of such holding over. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this

Lease except as otherwise expressly provided, and this Section 18 shall not be construed as consent for Tenant to retain possession of the Premises.

19. NOTICES. All notices required or permitted to be given under this Lease shall be in writing and shall be sent by registered or certified mail, return receipt requested, or by a reputable national overnight courier service, postage prepaid, or by hand delivery addressed to the parties at their addresses below. For purposes of notice the addresses of Landlord and Tenant are as follows:

If to Landlord: Premier Property Services Inc.
(c/o C&L Partnership, Ltd.)
9225 Katy Freeway, Suite 202
Houston, TX. 77024

with a copy to: Scott A. Elder, esq.
Cokinos, Bosien & Young
2221 East Lamar Boulevard, Suite 750
Arlington, Texas 76006

If to Tenant: Powell Industries, Inc.
8550 Mosley Drive
Houston, Texas 77075
Attn: Chief Financial Officer

Either party may by notice given as aforesaid change its address for all subsequent notices. Except where otherwise expressly provided to the contrary, notice shall be deemed given upon delivery.

20. SECURITY DEPOSIT. On the Effective Date, Tenant shall deposit with Landlord a Security Deposit in the amount of \$25,000, which shall be held by Landlord as security for the performance of Tenant's obligations under this Lease. The Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon each occurrence of an Event of Default, Landlord may use all or part of the Security Deposit to pay delinquent payments due under this Lease, and the cost of any damage, injury, expense or liability caused by such Event of Default, without prejudice to any other remedy provided herein or provided by law. On demand, Tenant shall pay Landlord the amount that will restore the Security Deposit to its original amount. Landlord's obligation respecting the Security Deposit is that of a debtor, not a trustee; no interest shall accrue thereon and Landlord shall have no requirement to place the Security Deposit in escrow and will not be liable to Tenant for commingling of Security Deposit with Landlord's other funds. The Security Deposit shall be deemed the property of Landlord, but shall be paid to Tenant when Tenant's obligations under this Lease have been completely fulfilled. Landlord shall be released from any obligation with respect to the Security Deposit upon transfer of this Lease and the Premises to a person or entity assuming Landlord's obligations under this Section 20.

21. Intentionally Omitted.

22. INDEMNIFICATION AND WAIVER. EXCEPT FOR LANDLORD'S (OR LANDLORD'S EMPLOYEES OR AGENTS) GROSS NEGLIGENCE AND WILLFUL MISCONDUCT, TENANT AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS LANDLORD, AND LANDLORD'S PARTNERS, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, ACTIONS, LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) FOR INJURIES TO ANY PERSON AND DAMAGE TO OR THEFT OR MISAPPROPRIATION OR LOSS OF PROPERTY WHETHER OCCURRING IN OR ABOUT THE PREMISES AND ARISING FROM TENANT'S USE AND OCCUPANCY OF THE PREMISES OR FROM ANY ACTIVITY, WORK, OR THING DONE, PERMITTED OR SUFFERED BY TENANT IN OR ABOUT THE PREMISES (INCLUDING, WITHOUT LIMITATION, ANY ALTERATION BY TENANT) OR FROM ANY BREACH OR DEFAULT ON THE PART OF TENANT IN THE PERFORMANCE OF ANY COVENANT OR AGREEMENT ON THE PART OF TENANT TO BE PERFORMED UNDER THIS LEASE OR DUE TO ANY OTHER ACT OR OMISSION OF TENANT, ITS SUBTENANTS, ASSIGNEES, INVITEES, EMPLOYEES, CONTRACTORS AND AGENTS OR THE ORDINARY NEGLIGENCE, NEGLIGENCE PER SE, STATUTORY, AND/OR STRICT LIABILITY OF LANDLORD. THE FURNISHING OF INSURANCE REQUIRED HEREUNDER SHALL NOT BE DEEMED TO LIMIT TENANT'S OBLIGATIONS UNDER THE PROVISIONS OF THIS SECTION 22. LANDLORD AND ITS PARTNERS, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES SHALL NOT BE LIABLE FOR, AND TENANT HEREBY WAIVES ALL CLAIMS AGAINST SUCH PARTIES FOR, INJURY TO PERSONS OR DAMAGE TO PROPERTY SUSTAINED BY TENANT OR ANY PERSON CLAIMING THROUGH TENANT RESULTING FROM ANY ACCIDENT OR OCCURRENCE IN OR UPON THE PREMISES FROM ANY CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION, INJURY OR DAMAGE CAUSED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY THE NEGLIGENCE, NEGLIGENCE PER SE, STATUTORY, AND/OR STRICT LIABILITY OF LANDLORD OR ITS PARTNERS, OFFICERS, DIRECTORS, AGENTS OR EMPLOYEES.

Notwithstanding the foregoing, except to the extent (but only to the extent) that injury, death or property damage results from or is attributable to the negligence or willful misconduct of Tenant, its agents or employees, Landlord shall be liable to Tenant for and hereby agrees to indemnify, protect, defend and hold Tenant and Tenant's shareholders, agents, directors, officers, members, employees, contractors, successors, assigns, and their respective personnel, agents, employees, contractors and representatives (collectively, the "Tenant Related Parties"), harmless of and from any and all claims, causes of action, fines, damages, liabilities, obligations, suits, losses, liens, judgments and expenses (including court costs, reasonable attorneys' fees and costs of investigation) of any kind, nature or description which result or arise or are alleged to result or arise from: (i) any breach or violation or non-performance of any covenant by Landlord under this Lease; or (ii) the activities of Landlord in and around the Premises, or the operations or conduct of Landlord's business upon the Premises; or (iii) any breach, violation or non-performance by Landlord of any law or Environmental Requirements (as hereinafter defined) (the claims described in subparagraphs (i) through (iii) being collectively, the "Tenant Claims").

23. INSPECTION AND ACCESS. Landlord and its agents, representatives, and contractors shall have the right to enter the Premises at any reasonable time upon twenty four hours notice to

inspect the Premises and to make such repairs as may be required or permitted pursuant to this Lease and for any other business purpose. Landlord and Landlord's representatives may enter the Premises during normal business hours for the purpose of showing the Premises to prospective lenders or purchasers or, during the last 180 days of the Lease Term, prospective tenants; in addition, Landlord shall have the right to erect a suitable sign on the Premises stating the Premises are available to let or that the Premises is available for sale. Landlord shall conduct its activities on the Premises as allowed in this Section in a reasonable manner and so as not to cause an unreasonable inconvenience to Tenant.

24. QUIET ENJOYMENT. If Tenant shall perform all of the covenants and agreements herein required to be performed by Tenant, Tenant shall, subject to the terms of this Lease, at all times during the Lease Term, have peaceful and quiet enjoyment of the Premises against any person claiming by, through or under Landlord, but not otherwise. Tenant hereby acknowledges that the access road to the Premises is part of a joint access easement and other tenants and owners from the surrounding buildings are entitled to use the access road for ingress and egress, such Declaration of Reciprocal Easements being filed of record on or about November 28, 2005 at Harris County Clerk's File No. Y923840.

25. LANDLORD'S DEFAULT AND LIABILITY.

(A). Landlord's Default. Landlord shall not be in default hereunder and Tenant shall not have any remedy or cause of action unless Landlord fails to perform any of its obligations hereunder within 30 days after written notice from Tenant specifying such failure (unless such performance will, due to the nature of the obligation, require a period of time in excess of 30 days, then after such period of time as is reasonably necessary, but in no event longer than 60 days from the date of receipt of Tenant's notice). If Landlord is in default hereunder, Tenant's exclusive remedy shall be an action for damages. All obligations of Landlord hereunder shall be construed as covenants not conditions; and all such obligations will be binding upon Landlord only during the period of its ownership of the Premises and not thereafter.

(B). Landlord's Liability. The term "Landlord" in this Lease shall mean only the owner, for the time being of the Premises, and in the event of the transfer of such owner of its interests in the Premises, such owner shall thereupon be released and discharged from all obligations of Landlord thereafter accruing, but such obligations shall be binding during the Lease Term upon each new owner for the duration of such owner's ownership. Any liability of Landlord under this Lease and/or with respect to the Premises or otherwise shall be limited solely to its interest in the Premises, and in no event shall any personal liability be asserted against Landlord and/or its partners, officers, directors, agents or employees in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord or such other parties.

26. ESTOPPEL CERTIFICATES. Tenant agrees, from time to time, within 10 days after request of Landlord, to execute and deliver to Landlord, or Landlord's designee, any estoppel certificate reasonably requested by Landlord, stating that this Lease is in full force and effect, the date to which rent has been paid, that Landlord is not in default hereunder (or specifying in detail the nature of Landlord's default), the termination date of this Lease and such other matters pertaining to this Lease as may be requested by Landlord. It is understood and agreed that Tenant's obligation to furnish each estoppel certificate in a timely fashion is a material inducement

for Landlord's execution of this Lease. No cure or grace period provided in this Lease shall apply to Tenant's obligations to timely deliver an estoppel certificate. Tenant hereby irrevocably appoints Landlord as its attorney in fact to execute on its behalf and in its name any such estoppel certificate if Tenant fails to execute and deliver the estoppel certificate within 10 days after the Landlord's written request thereof. Landlord shall use good faith efforts to respond to any similar requests for estoppel certificates (in form(s) acceptable to Landlord), requested by Tenant's lenders or prospective assignees from time to time within 10 business days following receipt of such request(s).

27. ENVIRONMENTAL REQUIREMENTS.

(A). General. Except for such incidental cleaning agents and solutions or maintenance materials used in the ordinary course or materials and goods stored as part of Tenant's Permitted Use of the Premises (but such use and storage shall be in compliance with all Environmental Requirements), Tenant shall not permit or cause any party to bring any Hazardous Material upon the Premises or store or use any Hazardous Material in or about the Premises without Landlord's prior written consent. Tenant, at its sole cost and expense, shall operate its business in the Premises in compliance with all Environmental Requirements, and will obtain, comply with, and properly maintain all permits and licenses, or applications required by Environmental Requirements for its operations. The term "Environmental Requirements" means all applicable present and future statutes, regulations, ordinances, rules, codes, or other similar enactments of any governmental authority of agency, and any applicable judicial, administrative or regulatory decrees, judgments, orders, or policies regulating or relating to any Hazardous Materials or pertaining to health, safety, industrial hygiene, or the environmental conditions on, under, or about the Premises or the environment, including, without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"); the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Air Act; the Federal Water Pollution Control Act; the Federal Hazardous Materials Transportation Act; and all state and local counterparts, supplements or additions thereto, and any regulations or policies promulgated or issued thereunder. The term "Hazardous Materials" means and includes petroleum (as defined in CERCLA), asbestos and any substance, material, waste, pollutant, or contaminant listed or defined as hazardous or toxic, under any Environmental Requirements.

(B). Indemnity. Tenant shall indemnify, defend, and hold Landlord any its partners, officers, directors, agents and employees harmless from and against any and all manner of losses (including, without limitation, diminution in value of the Premises and loss of rental income from the Premises), claims, demands, actions, suits, damages (including, without limitation, punitive damages), fines, penalties, administrative and judicial proceedings, judgments, settlements, expenses (including, without limitation, consultant fees, reasonable attorneys' fees, or expert fees) which arise during or after the Lease Term which are brought or recoverable against, or suffered or incurred by Landlord or such parties as a result of any breach of the obligations under this Section 27 or noncompliance with any Environmental Requirement by Tenant, its agents, employees, contractors, subtenants, or invitees, regardless of whether Tenant had knowledge of such noncompliance. Tenant shall bear the burden of proof by a preponderance of the evidence that the foregoing indemnification is inapplicable to any claim for indemnification by Landlord. The indemnification and hold harmless obligations of Tenant shall survive any termination of this Lease, any renewal, expansion or amendment of this Lease and/or the execution and delivery of

any new lease with Tenant covering all or any portion of the Premises.

(C). Landlord's Indemnity. Landlord shall indemnify, defend, and hold Tenant and any of its partners, officers, directors, agents and employees harmless from and against any and all manner of losses, claims, demands, actions, suits, damages (including, without limitation, punitive damages), fines, penalties, administrative and judicial proceedings, judgments, settlements, expenses (including, without limitation, consultant fees, reasonable attorneys' fees, or expert fees) arising or resulting in whole or in part, directly or indirectly, from the presence or discharge of Hazardous Materials, in, on, under, upon or from the Premises located thereon or from the transportation or disposal of Hazardous Materials to or from the Premises to the extent caused by Landlord. Landlord's obligations hereunder shall include, without limitation, and whether foreseeable or decontaminated of the Premises, and the presence and implementation of any closure, remedial action or other required plans in connection therewith, and shall survive the expiration of or early termination of the Term of this Lease. For purposes of the indemnity provided herein, any acts or omissions of Landlord, or its employees, agents, assignees, contractors or sub-contractors (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Landlord.

28. SECURITY SERVICE. Tenant acknowledges and agrees that Landlord is not providing any security services with respect to the Premises and that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other injury (including death) or damage suffered or incurred by Tenant or its employees or agents in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises. There shall be no charges assessed to Tenant for security services as part of the Operating Expenses.

29. ENTIRE AGREEMENT. This Lease constitutes the entire understanding and agreement of Landlord and Tenant with respect to the subject matter hereof, and contains all of the covenants and agreements of Landlord and Tenant with respect thereto. No representations, inducements, promises or agreements, oral or written, have been made by Landlord or Tenant, or anyone acting on behalf of Landlord or Tenant, which are not contained herein, and any prior letters of intent, agreements, promises, negotiations, or representations not expressly set forth in this Lease are hereby merged into this Lease and no longer of force or effect. This Lease may not be altered, changed or amended except by an instrument in writing signed by both parties hereto. This Lease supercedes any and all prior leases, agreements and addendums previously entered into by and between the parties. This Lease includes Exhibits "A" through "C" (which are attached and form a part hereof) all of which, along with this Lease, constitute the entire agreement of the parties and shall in no way be conditioned, modified or supplemented except by a written agreement executed by both parties.

30. SEVERABILITY. If any clause or provisions of this Lease is illegal, invalid or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid

and enforceable.

31. MISCELLANEOUS.

- (a) Any payments or charges due from Tenant to Landlord hereunder shall be considered rent ("Rent") for all purposes of this Lease.
- (b) Neither this Lease nor a memorandum of lease shall be filed or recorded by or on behalf of Tenant with any public official or recorder's office. Landlord may prepare and file, and upon request by Landlord, Tenant will execute, a memorandum of lease.
- (c) The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any exhibits or amendments hereto.
- (d) Any amount not paid by Tenant within 30 days after its due date in accordance with the terms of this Lease shall bear interest from such due date until paid in full at the lesser of: the maximum non-usurious contract rate of interest permitted by Texas law; or 18 percent per year. It is expressly the intent of Landlord and Tenant at all times to comply with applicable law governing the maximum rate or amount of any interest payable on or in connection with this Lease. If applicable law is ever judicially interpreted so as to render usurious any interest called for under this Lease, or contracted for, charged, taken, reserved, or received with respect to this Lease, then it is Landlord's and Tenant's express intent that all excess amounts theretofore collected by Landlord be credited on the applicable obligation (or, if the obligation has been or would thereby be paid in full, refunded to Tenant), and the provisions of this Lease immediately shall be deemed reformed and the amounts thereafter collectible hereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder.
- (e) Construction and interpretation of this Lease shall be governed by the laws of the state in which the Premises is located, excluding any principles of conflicts of law.
- (f) Time is of the essence with respect to the performance of every obligation of either party under this Lease.
- (g) Landlord represents and warrants to Tenant that as of the Effective Date, Landlord has authority to execute, deliver and perform this Lease and each instrument and agreement to be executed and delivered by Landlord pursuant hereto and to take all of the actions contemplated hereby to be taken by Landlord, including, but not limited to, delivery of possession of the Premises to Tenant free and clear of all leases, subleases and subtenancies and subject, however, to all liens, encumbrances, covenants, conditions and restrictions of record pertaining to the Premises as of the date of execution of this Lease by Landlord.

- (h) Tenant represents and warrants to Landlord that as of the Effective Date, Tenant has authority to execute, deliver and perform this Lease and each instrument and agreement to be executed and delivered by Tenant pursuant hereto and to take all of the actions contemplated hereby to be taken by Tenant.
- (i) This Lease may be executed in any number of duplicate originals, all of which shall be of equal legal force and effect. Additionally, this Lease may be executed in counterparts, but shall become effective only after a counterpart hereof has been executed by each party; all said counterparts shall, when taken together, constitute the entire single Lease between the parties.
- (j) Landlord acknowledges that Tenant shall have no obligation under the Lease to operate a business on the Premises.

LANDLORD:

C&L PARTNERSHIP, LTD.

By: /s/ Henry Chen
Henry Chen,
President

TENANT:

POWELL INDUSTRIES, INC.

By: /s/ Don R. Madison
Don Madison,
CFO

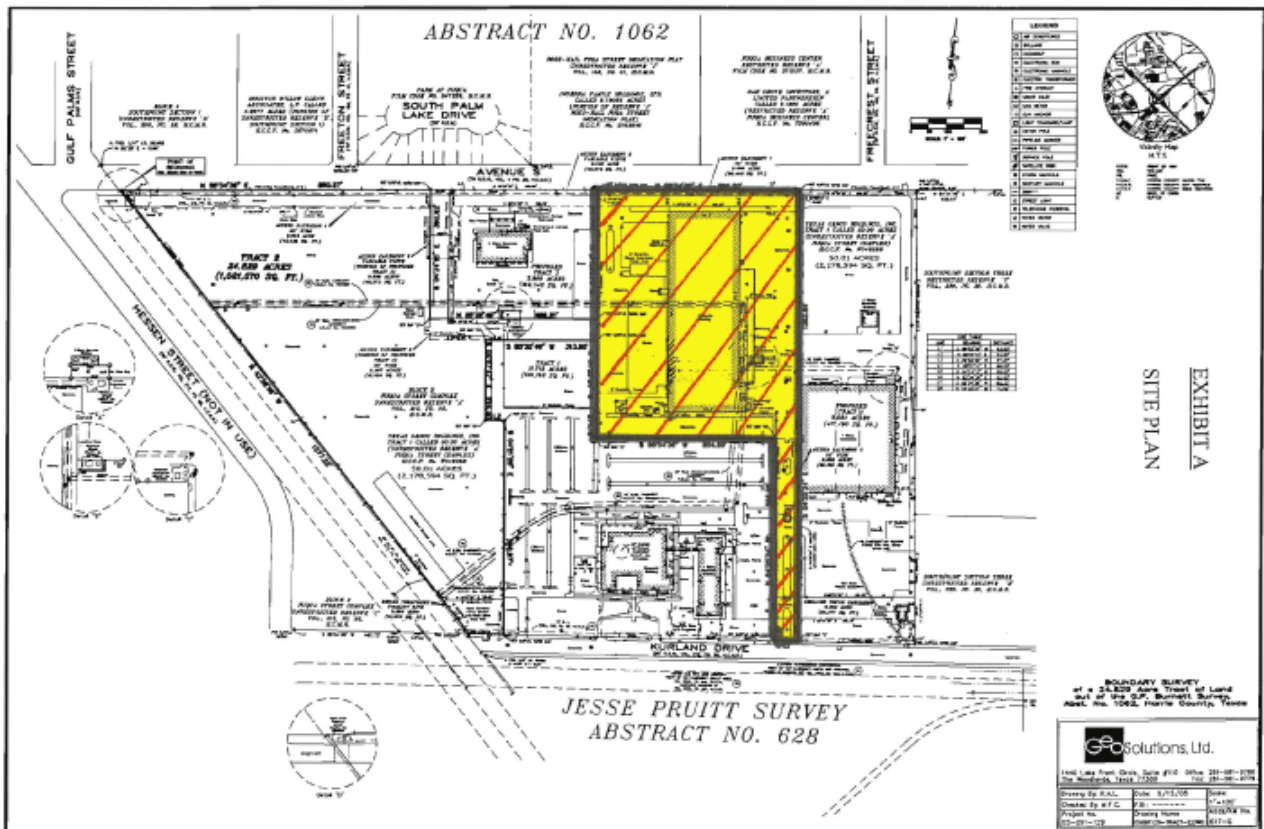


EXHIBIT B

OPTION TO EXTEND

Tenant has the right to extend this Lease beyond the Lease Term set forth in the Section 2 above upon the following terms and conditions:

- (a) Should Tenant fully and faithfully perform all of the terms and conditions of this Lease, Tenant may extend the term of this lease for two consecutive periods of 60 months each (hereinafter referred to as "Extension Terms") to begin on the day following the expiration of the Lease Term. Should Tenant be in default of any of the terms, covenants or conditions of this Lease at the date of expiration of the Primary Term, or initial Extension Term, this Option to Extend shall be null and void.
- (b) Tenant may exercise this Option to Extend by giving Landlord notice of its intention to do so not less than six months prior to the expiration of the Primary Term or initial Extension Term. To constitute effective notice of intention to exercise the option set forth herein, the notice must be sent in the manner set forth in the Lease and must be post-marked not later than the latest date provided in this section for Tenant's exercise right of its Option to Extend.
- (c) Any exercise of Tenant's Option to Extend will be under the same terms, covenants and conditions of the Lease, with the exception that the Base Rent, Operating Expenses and other payments due hereunder shall be at the prevailing market rate as agreed on by Landlord.

EXHIBIT C

TENANT'S WORK

Subject to the provisions of Section 12 herein regarding Tenant's Improvements, Tenant shall be entitled to make the following improvements to the Premises, at its sole cost and expense (the "Tenant's Work"):

Install a compressed air system throughout the Premises; construct new bathrooms in the Premises; and construct new office space on the first floor (directly under the office space which currently is located on the second floor) of the Premises. If Tenant elects to install the new office space, Tenant shall deposit with Landlord an additional \$25,000 as an additional Security Deposit prior to commencement of such office space construction. The additional Security Deposit will be subject to the terms of Section 20 of the Lease and shall be paid to Landlord upon Landlord's written approval of Tenant's plans and specifications for such office space in accordance with Section 12 of this Lease.

Notwithstanding anything to the contrary in this Lease, Landlord and Tenant hereby acknowledge that Tenant shall have no obligation to construct Tenant's Work or any other improvements on the Premises.

THIRD AMENDMENT TO CREDIT AGREEMENT

THIS THIRD AMENDMENT TO CREDIT AGREEMENT (this "*Amendment*") is entered into as of August 4, 2006, but shall be effective for all purposes as of the Effective Date (defined below) among Powell Industries, Inc., a Delaware corporation ("*Parent*"), Switchgear & Instrumentation Ltd., an entity organized under the laws of England and Wales (formerly known as Inhoco 3210 Limited, "*Inhoco*"), Switchgear & Instrumentation Properties Limited, an entity organized under the laws of England and Wales ("*SI Properties*" and together with Inhoco, "*UK Borrower*"), Bank of America, N.A., a national banking association, as Agent, Swing Line Lender and L/C Issuer under the Credit Agreement (in such capacity as administrative agent, together with its successors in such capacity, "*Agent*"), and each lender from time to time party to the Credit Agreement (collectively, "*Lenders*" and individually, a "*Lender*"). Capitalized terms used but not defined in this Amendment have the meaning given them in the Credit Agreement (defined below).

RECITALS

A. Parent, Inhoco, and SI Properties, as borrowers (each a "*Borrower*" and collectively "*Borrowers*"), Agent and Lenders entered into that certain Credit Agreement dated as of June 29, 2005 (as amended by the First Amendment to Credit Agreement dated November 7, 2005, as amended by the Second Amendment to Credit Agreement dated January 11, 2006, and as amended, restated or supplemented the "*Credit Agreement*").

B. Parent proposes to acquire the business and selected assets of General Electric Company's American National Standard Institute compliant medium voltage switchgear and circuit breaker business from General Electric Company's consumer and industrial business unit (the "*GE Acquisition*").

C. Borrowers, Agent and Lenders have agreed to amend the Credit Agreement, subject to the terms and conditions of this Amendment.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the undersigned hereby agree as follows:

1. Amendment to Credit Agreement. The Credit Agreement is amended as set forth below as of the Effective Date:

(a) The definitions of Applicable Rate, Debt Service, Designated Sublimit, Letter of Credit Sublimit, and Termination Date in *Section 1.01* of the Credit Agreement are deleted in their entirety and are replaced with the following:

"*Applicable Rate* means, except as specified below, the following percentages per annum, based upon the Consolidated Leverage Ratio as set out in the most recent Compliance Certificate received by Agent pursuant to *Section 6.02(b)*:

Pricing Level	Consolidated Leverage Ratio	Eurocurrency Rate +	Base Rate -	Letter of Credit Fee	Commitment Fee
1	<1.25:1.00	1.00%	1.00%	1.00%	0.20%
2	³ 1.25:1.00 but <1.75:1.00	1.25%	0.75%	1.25%	0.20%
3	³ 1.75:1.00 but <2.25:1.00	1.50%	0.50%	1.50%	0.20%
4	³ 2.25:1.00 but <2.75:1.00	1.75%	0.25%	1.75%	0.25%
5	³ 2.75:1.00	2.00%	0.00%	2.00%	0.375%

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to **Section 6.02(b)**; *provided that*, if a Compliance Certificate is not delivered when due in accordance with such Section, then Pricing Level 4 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until the first Business Day after a Compliance Certificate establishing a lower applicable Pricing Level is delivered pursuant to **Section 6.02(b)**. Notwithstanding the foregoing (a) the Letter of Credit fee from the date that the Compliance Certificate for the period ended April 30, 2006, was delivered through the fiscal quarter ending December 31, 2007 shall be determined based on Pricing Level 1, and (b) the Applicable Rate in effect on or prior to the date that the Compliance Certificate for the period ended December 31, 2007, is delivered pursuant to **Section 6.02(b)**, shall not exceed Pricing Level 4 at any time.

Debt Service means, when determined, the sum of the following, without duplication (a) the principal amount of all Consolidated Funded Indebtedness having a maturity longer than one year (other than the Term Principal Debt and Revolving Principal Debt) and paid during the most recently completed four fiscal quarters period, plus (b) Consolidated Interest Charges paid during the most recently completed four fiscal quarters period, plus (c) payments made on the Term Principal Debt pursuant to Section 2.07(a) for the most recently completed four fiscal quarters period.

Designated Sublimit means (a) with respect to Parent, \$42,000,000, and (b) with respect to UK Borrower, £4,000,000.

Letter of Credit Sublimit means (a) with respect to Parent, \$42,000,000, and (b) with respect to UK Borrower, £4,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Committed Amount.

Termination Date means the earlier of (a) December 31, 2010, or (b) the effective date that the Lenders' commitments to make Revolving Loans and purchase participations in L/C's and Swing Line Loans are otherwise cancelled or terminated in accordance with **Section 8** of this Agreement, or otherwise."

(b) **Section 7.11** of the Credit Agreement is deleted in its entirety and replaced with the following:

"7.11 Financial Covenants.

(a) Intentionally Omitted.

(b) Minimum EBITDA. Permit Consolidated EBITDA for each fiscal quarter period commencing with the quarter ending September 30, 2006, through and including September 30, 2007, to be less than the corresponding amount set out below:

Period	Minimum Consolidated EBITDA
quarter ending September 30, 2006	\$2,350,000
quarter ending December 31, 2006	\$3,500,000
quarter ending March 31, 2007	\$3,500,000
quarter ending June 30, 2007	\$3,500,000
quarter ending September 30, 2007	\$3,500,000

(c) Minimum Tangible Net Worth. Permit Consolidated Tangible Net Worth as of the end of each fiscal quarter, commencing with the quarter ending September 30, 2006, to be less than the *sum* of (i) \$140,000,000 *plus* (ii) an amount equal to 50% of the Consolidated Net Income for each fiscal quarter, commencing with the fiscal quarter ending September 30, 2006, and for each fiscal quarter thereafter (with no deduction for a net loss in any fiscal quarter), *plus* (iii) an amount equal to 100% of the aggregate increases in Shareholders' Equity of Parent and its Subsidiaries after the date hereof by reason of the issuance and sale of any Equity Interests of Parent or any Subsidiary (other than issuances to Parent or a wholly-owned Subsidiary), including upon any conversion of debt securities of Parent into such capital stock or other equity interests.

(d) Minimum Fixed Charge Coverage Ratio. Permit the Consolidated Fixed Charge Coverage Ratio at any time, to be less than the ratio set out below for the applicable fiscal quarter:

Period Ending	Minimum Consolidated Fixed Charge Coverage Ratio
December 31, 2007 and thereafter	1.25:1.00

(e) Maximum Leverage Ratio. Permit the Consolidated Leverage Ratio at any time to be greater than the ratio set out below for the applicable fiscal quarter:

Period Ending	Maximum Consolidated Leverage Ratio
on or after December 31, 2007, and on or prior to December 31, 2008	3.00:1.00
on March 31, 2009 and thereafter	2.75:1.00

(f) Capital Expenditures. Make or become legally obligated to make any expenditure in respect of the purchase or other acquisition of any fixed or capital asset (excluding normal replacements and maintenance which are properly charged to current operations), except for capital expenditures in the ordinary course of business not exceeding, in the aggregate for Parent and its Subsidiaries, for the fiscal years ended September 30, 2006 and September 30, 2007, the amount set forth opposite such fiscal year:

Period Ending	Maximum Capital Expenditures
September 30, 2006	\$8,000,000
September 30, 2007	\$13,000,000

2. Schedule. The existing **Schedule 2.01** to the Credit Agreement is deleted in its entirety and replaced with **Schedule 2.01** attached to this Amendment.

3. Consent and Waiver. Borrower has requested that Agent and Lenders consent to the consummation of the GE Acquisition as set forth in the Purchase Agreement (defined below). Subject to satisfaction of the conditions set forth in **Section 4** of this Amendment, Agent and Lenders hereby (a) consent to the GE Acquisition, (b) waives any violation of, or noncompliance with **Section 7.02(h)** of the Credit Agreement as a result of the GE Acquisition, and (c) agrees not to exercise any of the rights or remedies available to it under the Loan Documents solely as a result of the violation or noncompliance described in preceding *clause (b)*. This consent and waiver (x) is limited to the extent specifically set out in this Amendment, and (y) except as set out in the preceding sentence, Borrower hereby agrees such consent and waiver does not constitute a waiver of any present or future violation of or noncompliance with any provision of any Loan Document or a waiver of Agent or Lenders' right to insist upon strict compliance with each term, covenant, condition, and provision of the Loan Documents.

4. Conditions. This Amendment shall be effective (the "**Effective Date**") once each of the following have been delivered to Agent and Lenders (provided that, if the GE Acquisition is not closed on or before August 31, 2006, this Amendment shall be of no force and effect and no arrangement fee shall be due to Agent in connection with this Amendment):

- (a) this Amendment executed by Borrowers, Agent and Lenders;
- (b) Guarantors' Consent and Agreement executed by the Guarantors;
- (c) replacement Revolving Note executed by Borrowers and made payable to Bank of America, N.A. in the original principal amount of \$42,000,000;

(d) Agent's satisfactory completion of due diligence with respect to the Borrowers, Guarantors, and the GE Acquisition, including but not limited to Agent's review of (i) the Borrowers and Guarantors' financial performance and forecasts, (ii) the quality and quantity of assets being acquired in the GE Acquisition, (iii) the collateral securing the Credit Agreement, (iv) the definitive Asset Purchase Agreement between Parent and General Electric Company with respect to the GE Acquisition (the "**Purchase Agreement**") and any other ancillary documents executed in connection with the Purchase Agreement, and (v) any other due diligence items deemed necessary by Agent;

(e) no Material Adverse Effect shall have occurred since April 30, 2006;

(f) all conditions precedent to the consummation of the GE Acquisition as specified in the Purchase Agreement shall have been obtained, satisfied or occurred, other than the payment of the purchase price by Parent;

(g) payment of the arrangement fee specified in that certain fee letter dated July 25, 2006, between Parent and Agent;

(h) Officer's Certificate of Parent certifying as to incumbency of officers, specimen signatures, no changes to articles of incorporation and bylaws since the date of the certificate delivered in connection with the Credit Agreement, and resolutions adopted by the Board of Directors authorizing this Amendment;

(i) Officer's Certificate from each Guarantor certifying as to the incumbency of officers, specimen signatures, no changes to its constitutional documents since the date of the certificate delivered in connection with the Credit Agreement, and resolutions adopted by the Board of Directors authorizing this Amendment and the increased amount of its obligations under its respective Guaranty; and

(j) such other documents as Agent or Lenders may reasonably request.

5. Representations and Warranties. Each Borrower represents and warrants to Agent and Lenders that (a) it possesses all requisite power and authority to execute, deliver and comply with the terms of this Amendment, (b) this Amendment has been duly authorized and approved by all requisite corporate action on the part of Borrower, (c) no other consent of any Person (other than Lenders) is required for this Amendment to be effective, (d) the execution and delivery of this Amendment does not violate its organizational documents, (e) the representations and warranties in each Loan Document to which it is a party are true and correct in all material respects on and as of the date of this Amendment as though made on the date of this Amendment (*except* to the extent that such representations and warranties speak to a specific date), (f) it is in full compliance with all covenants and agreements contained in each Loan Document to which it is a party, and (g) no Default or Event of Default has occurred and is continuing. The representations and warranties made in this Amendment shall survive the execution and delivery of this Amendment. No investigation by Agent or Lenders is required for Agent or Lenders to rely on the representations and warranties in this Amendment.

6. Scope of Amendment; Reaffirmation; Release. All references to the Credit Agreement shall refer to the Credit Agreement as amended by this Amendment. Except as

affected by this Amendment, the Loan Documents are unchanged and continue in full force and effect. However, in the event of any inconsistency between the terms of the Credit Agreement (as amended by this Amendment) and any other Loan Document, the terms of the Credit Agreement shall control and such other document shall be deemed to be amended to conform to the terms of the Credit Agreement. Borrowers hereby reaffirm their obligations under the Loan Documents to which each is a party and agree that all Loan Documents to which they are a party remain in full force and effect and continue to be legal, valid, and binding obligations enforceable in accordance with their terms (as the same are affected by this Amendment). Borrowers hereby release Agent and Lenders from any liability for actions or omissions in connection with the Credit Agreement and the other Loan Documents prior to the date of this Amendment.

7. Miscellaneous.

(a) Release. Powell-Esco Company, formerly a Texas corporation, and Powell Industries China, Inc., formerly a Delaware corporation, are each released from their respective Guaranty in favor of Agent executed in connection with the Credit Agreement, and such Guaranties of Powell-Esco Company and Powell Industries China, Inc. are of no further force and effect.

(b) No Waiver of Defaults. This Amendment does not constitute (i) a waiver of, or a consent to, (A) any provision of the Credit Agreement or any other Loan Document not expressly referred to in this Amendment, or (B) any present or future violation of, or default under, any provision of the Loan Documents, or (ii) a waiver of Agent's or Lenders' right to insist upon future compliance with each term, covenant, condition and provision of the Loan Documents.

(c) Form. Each agreement, document, instrument or other writing to be furnished to Lenders under any provision of this Amendment must be in form and substance satisfactory to Agent and its counsel.

(d) Headings. The headings and captions used in this Amendment are for convenience only and will not be deemed to limit, amplify or modify the terms of this Amendment, the Credit Agreement, or the other Loan Documents.

(e) Costs, Expenses and Attorneys' Fees. Borrowers agree to pay or reimburse Agent on demand for all of their reasonable out-of-pocket costs and expenses incurred in connection with the preparation, negotiation, and execution of this Amendment, including, without limitation, the reasonable fees and disbursements of Agent's counsel.

(f) Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of each of the undersigned and their respective successors and permitted assigns.

(g) Multiple Counterparts. This Amendment may be executed in any number of counterparts with the same effect as if all signatories had signed the same document. All counterparts must be construed together to constitute one and the same instrument. This Amendment may be transmitted and signed by facsimile. The effectiveness of any such

documents and signatures shall, subject to applicable law, have the same force and effect as manually-signed originals and shall be binding on Borrowers, Agent and Lenders. Agent may also require that any such documents and signatures be confirmed by a manually-signed original; *provided that* the failure to request or deliver the same shall not limit the effectiveness of any facsimile document or signature.

(h) Governing Law. This Amendment and the other Loan Documents must be construed, and their performance enforced, under Texas law.

(i) Entirety. **THE LOAN DOCUMENTS (AS AMENDED HEREBY) REPRESENT THE FINAL AGREEMENT BETWEEN BORROWERS, AGENT AND LENDERS AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS BY THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.**

[Signatures appear on the following pages.]

The Amendment is executed as of the date set out in the preamble to this Amendment.

BORROWERS:

POWELL INDUSTRIES, INC.

By: /s/ Don R. Madison

Don R. Madison

Vice President, Secretary and Treasurer

SWITCHGEAR & INSTRUMENTATION LTD.,
formerly known as Inhoco 3210 Limited

By: /s/ Don R. Madison

Don R. Madison

Director

SWITCHGEAR & INSTRUMENTATION PROPERTIES LIMITED

By: /s/ Don R. Madison

Don R. Madison

Director

Signature Page to Third Amendment to Credit Agreement

BANK OF AMERICA, N.A., as Agent

By: /s/ Daniel J. Lintner

Daniel J. Lintner
Senior Vice President

BANK OF AMERICA, N.A., as a Lender, L/C
Issuer and Swing Line Lender

By: /s/ Daniel J. Lintner

Daniel J. Lintner
Senior Vice President

Signature Page to Third Amendment to Credit Agreement

GUARANTORS' CONSENT AND AGREEMENT TO THIRD AMENDMENT

As an inducement to Agent and Lenders to execute, and in consideration of Agent's and Lenders' execution of, this Amendment, the undersigned hereby consents to this Amendment and agrees that this Amendment shall in no way release, diminish, impair, reduce or otherwise adversely affect the obligations and liabilities of the undersigned under the Guaranty executed by each of the undersigned in connection with the Credit Agreement, or under any Loan Documents, agreements, documents or instruments executed by the undersigned to create liens, security interests or charges to secure any of the Obligations (as defined in the Credit Agreement), all of which are in full force and effect. The undersigned further represents and warrants to Agent and Lenders that (a) the representations and warranties in each Loan Document to which it is a party are true and correct in all material respects on and as of the date of this Amendment as though made on the date of this Amendment (except to the extent that such representations and warranties speak to a specific date), (b) it is in full compliance with all covenants and agreements contained in each Loan Document to which it is a party, and (c) no Default or Event of Default has occurred and is continuing. Guarantors hereby release Agent and Lenders from any liability for actions or omissions in connection with the Loan Documents prior to the date of this Amendment. This Guarantors' Consent and Agreement shall be binding upon each of the undersigned, and its permitted assigns, and shall inure to the benefit of Agent, Lenders, and its successors and assigns.

GUARANTORS:

TRANSDYN, INC.,
a Delaware corporation

By: /s/ Don R. Madison
Don Madison
Vice President, Secretary, and Treasurer

POWELL INDUSTRIES INTERNATIONAL, INC.,
a Delaware corporation

By: /s/ Don R. Madison
Don Madison
Vice President, Secretary, and Treasurer

POWELL INDUSTRIES ASIA, INC.,
a Delaware corporation

By: /s/ Don R. Madison
Don Madison
Vice President, Secretary, and Treasurer

POWELL ELECTRICAL SYSTEMS, INC.,
a Delaware corporation

By: /s/ Don R. Madison
Don Madison
Vice President, Secretary, and Treasurer

Guarantors' Consent and Agreement to Third Amendment

SCHEDULE 2.01

**COMMITMENTS
AND APPLICABLE PERCENTAGES**

A. Term Facility for UK Borrower

<u>Lender</u>	<u>Commitment</u>	<u>Applicable Percentage</u>
Bank of America, N.A.	£6,000,000	100%
Total	£6,000,000	100%

B. Revolving Facility for UK Borrower

<u>Lender</u>	<u>Commitment</u>	<u>Applicable Percentage</u>
Bank of America, N.A.	£4,000,000	100%
Total	£4,000,000	100%

C. Revolving Facility for Parent

<u>Lender</u>	<u>Commitment</u>	<u>Applicable Percentage</u>
Bank of America, N.A.	\$42,000,000	100%
Total	\$42,000,000	100%

Schedule 2.01 to the Third Amendment