

Consolidated Edison Co. of New York, Inc.
Entergy Nuclear Indian Point 2, LLC
Entergy Nuclear Operations, Inc.

Docket Nos. 50-003 and 50-247
License Nos. DPR-5 and DPR- 26

ENCLOSURE 4

Asset Purchase and Sale Agreement (without schedules)

Between

Consolidated Edison Co. of New York, Inc.

and

Entergy Nuclear Indian Point 2, LLC

GENERATING PLANT
AND GAS TURBINE
ASSET PURCHASE AND SALE AGREEMENT

FOR

INDIAN POINT GENERATING STATION
UNITS 1 AND 2 AND GAS TURBINE UNITS 1, 2 AND 3
AND
TODDVILLE TRAINING CENTER

LOCATED AT VILLAGE OF BUCHANAN AND/OR
THE TOWN OF CORTLANDT
WESTCHESTER COUNTY, NEW YORK

By and Between

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

—and

ENTERGY NUCLEAR INDIAN POINT 2, LLC

Dated as of November 9, 2000

TABLE OF CONTENTS

Page

ARTICLE I

Definitions

SECTION 1.01.	Definitions	1
SECTION 1.02.	Accounting Terms	23

ARTICLE II

Purchase and Sale; Assumption of Certain Liabilities

SECTION 2.01.	Purchase and Sale	23
SECTION 2.02.	Auctioned Assets and Retained Assets.	23
SECTION 2.03.	Assumed Obligations and Retained Liabilities	29
SECTION 2.04.	Third Party Consents	34
SECTION 2.05.	Franchise Property	35

ARTICLE III

Closing

SECTION 3.01.	Time and Place of Closing	35
SECTION 3.02.	Purchase Price	35
SECTION 3.03.	Post-Closing Adjustment	38
SECTION 3.04.	Allocation of Consideration	39

ARTICLE IV

Representations and Warranties of Seller

SECTION 4.01.	Organization; Qualification	40
SECTION 4.02.	Authority Relative to This Agreement	40
SECTION 4.03.	Consents and Approvals; No Violation	41
SECTION 4.04.	Personal Property	43
SECTION 4.05.	Real Estate	43
SECTION 4.06.	Leases	43
SECTION 4.07.	Contracts	43
SECTION 4.08.	Legal Proceedings	44
SECTION 4.09.	Permits; Compliance with Law	44
SECTION 4.10.	Environmental Matters	45
SECTION 4.11.	Labor Matters	46
SECTION 4.12.	ERISA; Benefit Plans	46
SECTION 4.13.	Taxes	47
SECTION 4.14.	Undisclosed Liabilities	48

	<u>Page</u>
SECTION 4.15. Brokers	48
SECTION 4.16. Insurance	48
SECTION 4.17. Nuclear Matters	49
SECTION 4.18. Qualified Decommissioning Fund	49
SECTION 4.19. Nonqualified Decommissioning Fund	50
SECTION 4.20. Sufficiency of Auctioned Assets	51
SECTION 4.21. Condemnation	51
SECTION 4.22. No Change in Accounting Methods or Practices	51

ARTICLE V

Representations and Warranties of Buyer

SECTION 5.01. Organization	52
SECTION 5.02. Authority Relative to This Agreement	52
SECTION 5.03. Consents and Approvals; No Violation	52
SECTION 5.04. Availability of Funds	54
SECTION 5.05. Brokers	54

ARTICLE VI

Covenants of the Parties

SECTION 6.01. Conduct of Business Relating to the Auctioned Assets	54
SECTION 6.02. Access to Information	57
SECTION 6.03. Consents and Approvals; Transferable Permits	58
SECTION 6.04. Further Assurances	60
SECTION 6.05. Public Statements	61
SECTION 6.06. Tax Matters	62
SECTION 6.07. Decommissioning Funds	63
SECTION 6.08. Decommissioning	64
SECTION 6.09. Bulk Sales or Transfer Laws	65
SECTION 6.10. Storage And Risk of Loss Concerning Certain Auctioned Assets	65
SECTION 6.11. Information Resources	65
SECTION 6.12. Witness Services	66
SECTION 6.13. Trade Names	67
SECTION 6.14. Steam Generator Storage Facility	67
SECTION 6.15. Availability of Cooling Water Usage Credits	67
SECTION 6.16. Nuclear Insurance	68
SECTION 6.17. Update of Schedules	68

ARTICLE VII

Conditions

SECTION 7.01.	Conditions Precedent to Each Party's Obligations	69
SECTION 7.02.	Conditions Precedent to Obligation of Buyer	70
SECTION 7.03.	Conditions Precedent to Obligation of Seller	74

ARTICLE VIII

Employee Matters

SECTION 8.01.	Employee Matters	76
SECTION 8.02.	Continuation of Equivalent Benefit Plans/Credited Service	78
SECTION 8.03.	Pension Plan	80
SECTION 8.04.	401(k) Plan	81
SECTION 8.05.	Welfare Plans	82
SECTION 8.06.	Short- and Long-Term Disability	83
SECTION 8.07.	Life Insurance and Accidental Death and Dismemberment Insurance	84
SECTION 8.08.	Severance	84
SECTION 8.09.	Workers Compensation	86

ARTICLE IX

Indemnification and Dispute Resolution

SECTION 9.01.	Indemnification	86
SECTION 9.02.	Third Party Claims Procedures	89
SECTION 9.03.	Procedures Relating to Tax Indemnity	91

ARTICLE X

Termination

SECTION 10.01.	Termination	92
----------------	-----------------------	----

ARTICLE XI

Miscellaneous Provisions

SECTION 11.01.	Expenses	94
----------------	--------------------	----

	<u>Page</u>
SECTION 11.02. Amendment and Modification; Extension; Waiver	94
SECTION 11.03. Survival of Representations or Warranties	94
SECTION 11.04. Notices	95
SECTION 11.05. Assignment; No Third Party Beneficiaries	95
SECTION 11.06. Governing Law	97
SECTION 11.07. Counterparts	97
SECTION 11.08. Interpretation	97
SECTION 11.09. Jurisdiction and Enforcement	98
SECTION 11.10. Entire Agreement	99
SECTION 11.11. Severability	99
SECTION 11.12. Conflicts	99

SCHEDULES AND EXHIBITS

Schedule 2.02 (a) (i) (A)	Buyer Real Estate-Indian Point
Schedule 2.02 (a) (i) (B)	Buyer Real Estate-GT Site
Schedule 2.02 (a) (i) (C)	Buyer Real Estate-Toddville
Schedule 2.02 (a) (ii)	Spare Parts
Schedule 2.02 (a) (iii)	Buyer Personal Property
Schedule 2.02 (a) (iv)	Contracts
Schedule 2.02 (a) (v)	Transferable Permits
Schedule 2.02 (a) (x)	Nitrogen Oxide Allowances
Schedule 2.02 (b) (i)	Seller Personal Property Located on Buyer Real Estate
Schedule 2.02 (b) (ii) (B)	Communications Equipment
Schedule 2.05 (a)	Franchise Property
Schedule 3.02 (c) (iv)	Capital Projects
Schedule 3.02 (c) (vi)	Remediation
Schedule 3.02 (c) (vii)	Low-level Radioactive Waste Removal
Schedule 3.03 (a)	Fuel Inventory Methodology
Schedule 4.03 (a)	Contracts Requiring Third Party Consents
Schedule 4.04 (b)	Exceptions to Technical Specifications
Schedule 4.06	Leases
Schedule 4.07 (a)	Contracts Retained by Seller
Schedule 4.08	Legal Proceedings
Schedule 4.09 (a)	Exceptions Under Permits
Schedule 4.09 (b)	Non-Environmental Violations
Schedule 4.10	Environmental Matters
Schedule 4.11	Labor Matters
Schedule 4.12	Benefit Plans
Schedule 4.13	Statute of Limitations for Taxes
Schedule 4.14	Undisclosed Liabilities
Schedule 4.16 (a)	Insurance

Schedule 4.16(b)	Insurance Exceptions
Schedule 4.17	Nuclear Matters
Schedule 6.01(b) (vi)	Employment Matters
Schedule 6.01(c) (i)	Contracts Entered Into Without Consent of Buyer
Schedule 6.01(c) (ii)	Capital Projects-Dollar Amounts
Schedule 6.01(c) (iii)	Remediation-Dollar Amounts
Schedule 7.02(d) (i)	Required Contracts
Schedule 7.02(d) (ii)	Required Software
Schedule 8.01(a)	Job Titles
Schedule 8.01(b)	Collective Bargaining Agreements

Exhibit A-1	Form of Deed of Conveyance for Westchester County [Land and Improvements]
Exhibit A-2	Form of Deed of Conveyance for Westchester County [Improvements on GT Site]
Exhibit A-3	Form of GT Site Ground Lease
Exhibit A-4	Form of Declaration of Easements Agreement
Exhibit B	Form of FIRPTA Affidavit
Exhibit C	Form of Opinion of John D. McMahon, Esq., General Counsel of Seller
Exhibit D	Form of Affidavit
Exhibit E	Form of Opinion of General Counsel of Buyer and Entergy Nuclear, Inc.
Exhibit F	Form of Guarantee Agreement
Exhibit G	Form of Opinion of Counsel to Guarantor
Exhibit H	Form of Bill of Sale
Exhibit I	Application for Service for Non-Residential Customers
Exhibit J	Direct Retail Customer Operating and Transmission Service Agreement
Exhibit K	Direct Customer Operating Agreement

GENERATING PLANT AND GAS TURBINE

ASSET PURCHASE AND SALE AGREEMENT (including the Schedules hereto, this "Agreement") dated as of November 9, 2000, by and between CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a New York corporation ("Seller"), and ENTERGY NUCLEAR INDIAN POINT 2, LLC, a Delaware limited liability company ("Buyer") (Buyer and Seller are sometimes herein referred to collectively as the "Parties" and individually as a "Party").

WHEREAS Seller has conducted an auction process in which it has solicited proposals to purchase the Auctioned Assets (as defined herein); and

WHEREAS Buyer desires to purchase, and Seller desires to sell, the Auctioned Assets upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Definitions. As used in this Agreement, the following terms have the following meanings:

"Accountants" shall have the meaning set forth in Section 3.03(b).

"Adjustment Amount" shall have the meaning set forth in Section 3.03(a).

"Adjustment Date" shall have the meaning set forth in Section 3.03(c).

"Adjustment Statement" shall have the meaning set forth in Section 3.03(a).

"Affected Employees" shall have the meaning set forth in Section 8.01(a).

"Affected Union Employees" shall have the meaning set forth in Section 8.01(b).

"Affiliate" shall have the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended.

"Agreement" shall have the meaning set forth in the Preamble.

"Allocation" shall have the meaning set forth in Section 3.04.

"Ancillary Agreements" means the Continuing Site Agreement, the Declaration of Easements Agreement, the GT Site Ground Lease, the Power Purchase Agreement, the Bill of Sale, the deeds contemplated by Section 7.02(e)(i) and any other agreement to which Buyer and Seller are party and which is expressly identified by its terms as an Ancillary Agreement hereunder.

"ANI" means American Nuclear Insurers.

"Assumed Obligations" shall have the meaning set forth in Section 2.03(a).

"Atomic Energy Act" means the Atomic Energy Act of 1954, as amended, and the rules and regulations promulgated thereunder.

"Auctioned Assets" shall have the meaning set forth in Section 2.02(a).

"Benefit Plans" shall have the meaning set forth in Section 4.12.

"Bidder Confidentiality Agreements" shall have the meaning set forth in Section 6.02(b).

"Bill of Sale" shall have the meaning set forth in Section 7.02(q)(i).

"Bowline" shall have the meaning set forth in Section 6.15(b).

"Business Day" means any day other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in New York are authorized or required by Law or other action of a Governmental Authority to close.

"Buyer" shall have the meaning set forth in the Preamble.

"Buyer Assets" means any property, machinery, equipment, facilities or systems (including Buyer Facilities) that are from time to time owned or leased by Buyer or its Affiliates after Closing and are employed by Buyer in connection with the performance of the activities contemplated by the Ancillary Agreements.

"Buyer Benefit Plans" shall have the meaning set forth in Section 8.02(c).

"Buyer Decommissioning Funds" means the trust funds maintained by Buyer into which the Decommissioning Funds are transferred at Closing, or any successor funds thereto.

"Buyer Facilities" shall mean the "Buyer Facilities" under the Declaration of Easements Agreement.

"Buyer Indemnities" shall have the meaning set forth in Section 9.01(a).

"Buyer Material Adverse Effect" shall have the meaning set forth in Section 5.03(a).

"Buyer Real Estate" shall have the meaning set forth in Section 2.02(a)(i).

"Buyer Required Regulatory Approvals" shall have the meaning set forth in Section 5.03(b).

"Buyer's 401(k) Plans" shall have the meaning set forth in Section 8.04(a).

"Buyer's Pension Plans" shall have the meaning set forth in Section 8.03(a).

"Buyer's Severance Plan" shall have the meaning set forth in Section 8.08(a).

"Buyer's Welfare Plans" shall have the meaning set forth in Section 8.05(a).

"Closing" shall have the meaning set forth in Section 3.01.

"Closing Date" shall have the meaning set forth in Section 3.01.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreement" shall have the meaning set forth in Section 8.01(b).

"Communications Equipment" means the equipment, systems, switches and lines used in connection with voice, data and other communications activities.

"Confidentiality Agreement" means the Confidentiality Agreement dated February 1, 2000 between Seller and Buyer.

"Consent Order" shall have the meaning set forth in Section 6.15(a).

"Consumer Price Index" shall have the meaning set forth in Section 6.08(b).

"Continued Employees" shall have the meaning set forth in Section 8.01(a).

"Continued Employee Records" shall have the meaning set forth in Section 2.02(a)(vi).

"Continued Non-Union Employee" shall have the meaning set forth in Section 8.02(a).

"Continued Union Employee" shall have the meaning set forth in Section 8.01(b).

"Continuing Site Agreement" means the Continuing Site Agreement dated as of even date herewith between Seller and Buyer.

"Contracts" shall have the meaning set forth in Section 2.02(a)(iv).

"Conveyance Plans" means the Indian Point Conveyance Plan and the Toddville Conveyance Plan.

"Declaration of Easements Agreement" means the Declaration of Easements Agreement to be entered into between Seller and Buyer in the form of Exhibit A-4.

"Decommissioning" means the complete retirement and removal of the Auctioned Assets from service and

the restoration of the Buyer Real Estate (and all surface and subsurface elements thereof including soils, surface water and groundwater), as well as any planning and other activities relating thereto, including (i) the dismantlement, decontamination, removal, storage or entombment of the Auctioned Assets, in whole or in part, and any reduction or removal, whether before or after termination of the NRC operating license for the Auctioned Assets, of radioactivity at the Buyer Real Estate (and all surface and subsurface elements thereof including soils, surface water and groundwater), and (ii) any activities necessary for the retirement, dismantlement, decontamination, removal, storage and entombment of the Auctioned Assets to comply with applicable Laws, the NRC operating license for the Auctioned Assets and any related decommissioning plan. "Decommission" shall have a correlative meaning.

"Decommissioning Accounting Records" shall have the meaning set forth in Section 2.02(a)(vi).

"Decommissioning Funds" means the Qualified Decommissioning Fund and the Nonqualified Decommissioning Fund, collectively.

"Decommissioning Indentures" means the Master Nuclear Decommissioning Trust Agreement between Seller and Harris Trust and Savings Bank made as of December 30, 1988, as amended, regarding the Qualified Decommissioning Fund (it being understood that Mellon Bank (DE) National Association, rather than Harris Trust and Savings Bank, is currently Trustee) and the Master Nuclear Decommissioning Trust Agreement between Seller and Harris Trust and Savings Bank made as of June 30, 1993, as amended, regarding the Nonqualified Decommissioning Fund (it being understood that Mellon Bank (DE) National Association, rather than Harris Trust and Savings Bank, is currently Trustee).

"Decon" means the process by which the radioactive structures, systems, components and equipment of a generating facility are removed or decontaminated to a level that permits termination of such facility's NRC operating license after cessation of operations and release of such facility by the NRC in accordance with applicable NRC regulations.

"Deeds" shall have the meaning set forth in Section 7.02(e).

"Department of Energy" means the United States Department of Energy or any successor thereto.

"Department of Energy Decontamination and Decommissioning Fees" means all fees related to the Department of Energy's Special Assessment of utilities for the Uranium Enrichment Decontamination and Decommissioning Fund pursuant to the Atomic Energy Act, or any similar fees assessed under applicable Law relating to separative work units purchased from the Department of Energy in order to decommission the Department of Energy's gaseous diffusion enrichment facilities.

"DOE Standard Contract" means the Contract For Disposal of Spent Nuclear Fuel And/Or High Level Radioactive Waste, No. DE-CR01-83-NE44373, dated as of June 17, 1983, between the United States of America, represented by the United States Department of Energy, and Seller, as amended.

"Electric Service Contract" means an agreement for service in accordance with Seller's Schedule for Electricity Service, P.S.C. No. 9 - Electricity or Seller's Schedule for Retail Access, P.S.C. No. 2 - Retail Access, as such Schedules may be revised or superseded from time to time, using (i) an Application for Service for Non-Residential Customers in the form of Exhibit I, (ii) a Direct Retail Customer Operating and Transmission Service Agreement in the form of Exhibit J and (iii) a Direct Customer Operating Agreement in the form of Exhibit K.

"Encumbrances" means any mortgages, pledges, liens, security interests, conditional and installment sale agreements, activity and use limitations, exceptions, easements, rights-of-way, deed restrictions, encumbrances, charges of any kind, and any related documents and/or instruments of record.

"Energy Reorganization Act" means the Energy Reorganization Act of 1974, as amended, and the rules and regulations promulgated thereunder.

"ENO" means Entergy Nuclear Operations, Inc., an Affiliate of Buyer.

"Entomb" means the process by which radioactive structures, systems, components and equipment of a generating facility are encased in a structurally long-lived substance, such as concrete, whereby the entombed

structure is appropriately maintained, and continued surveillance is carried out until the radioactivity decays to a level that permits termination of the NRC operating licenses for such facility.

"environment" (i) means ambient air, surface water and groundwater (including potable water, navigable water and wetlands), land surface or subsurface strata or (ii) shall have the meaning set forth in any Environmental Law.

"Environmental Laws" means all former, current and future federal, state, local and foreign laws (including common law), treaties, regulations, rules, ordinances, codes, decrees, judgments, directives, orders (including consent orders), Environmental Permits and New York State Department of Environmental Conservation Technical Administrative Guidance Memoranda, in each case, relating to pollution, protection of the environment, natural resources or human health and safety, including laws relating to the presence, Release of, or exposure to, Hazardous Substances, or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, transport, recycling or handling of, or arrangement for such activities with respect to, Hazardous Substances.

"Environmental Liability" means all liabilities, obligations, claims, causes of action, actions, suits, judgments, orders, damages, injunctive relief, losses, fines, penalties, fees, expenses and costs arising from, relating to, or in connection with or alleged to arise from, relate to, or be connected with (i) any actual or alleged violation of or compliance or noncompliance with, Environmental Laws prior to, on, or after the Closing Date in connection with the Auctioned Assets or any ownership, operation, maintenance or control thereof; (ii) the presence, Release, use or generation of, or exposure to, Hazardous Substances at, in, under, upon, above, in connection with, or migrating to or from the Auctioned Assets prior to, on, or after the Closing Date or the transportation, or the arrangement thereof, of Hazardous Substances to or from the Auctioned Assets prior to, on, or after the Closing Date; (iii) any action to address such presence, Release, use or generation of, or exposure to, Hazardous Substances at, in, under, upon, above, in connection with, or migrating to or from the Auctioned Assets, whether such action commenced before or commences on or after the Closing Date, including

(A) sampling, analysis, monitoring, investigation, assessment, treatment, remediation, cleanup, containment, removal, mitigation, response, Decommissioning, closure, restoration, reclamation, institutional controls, deed restrictions, evacuation or "precautionary evacuation" (as defined under the Atomic Energy Act and the rules and regulations promulgated thereunder); (B) obtaining any Permits or Environmental Permits or NRC Permits necessary to conduct or cease any such activities; (C) preparing and implementing any plans or studies for any such activities; (D) fees and expenses of engineers, consultants, laboratories and attorneys; and (E) permitting and licensing fees, administrative oversight costs, insurance premiums and related costs and costs to establish and maintain financial assurance funds; and (iv) any loss of life, injury to persons, property or business or damage to natural resources (regardless of whether such loss, injury or damage arose or was made manifest or is alleged to have arisen or manifested itself prior to, on, or after the Closing Date) arising from, relating to, or in connection with or alleged to arise from, relate to, or be connected with any of the matters described in (i), (ii) or (iii) above.

"Environmental Permits" means all permits, licenses, consents, approvals and other governmental authorizations with respect to Environmental Laws relating primarily to the operations of the Generating Plants or the Gas Turbines, but not including any NRC Permits.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" shall have the meaning set forth in Section 4.12.

"Estimated Adjustment Amount" shall have the meaning set forth in Section 3.02(d).

"Estimated Closing Statement" shall have the meaning set forth in Section 3.02(d).

"Excess Decommissioning Funds" means, as of the Expiration Date, the amount, if any, by which the aggregate Decommissioning funds held by Buyer exceed the estimated cost to Buyer of Decommissioning by Safstor or Entomb. For purposes of this definition, the estimated cost to Buyer of Decommissioning by

Safstor or Entomb shall be determined as of the Expiration Date in accordance with the cost estimates filed with the NRC by Buyer and standard industry practices.

"Expiration Date" shall have the meaning set forth in Section 6.08.

"Fair Market Value" means, with respect to the assets of the Decommissioning Funds, the value of such assets (including any accrued interest and dividends relating to such assets) as of the close of the Business Day immediately preceding the Closing Date, which fair market value shall be determined based on a statement prepared on behalf of Seller on a basis consistent with past practice by the financial institutions managing the Decommissioning Funds and listing such assets, together with the purchase price and fair market value of each asset.

"FERC" means the Federal Energy Regulatory Commission or any successor thereto.

"Federal Power Act" shall have the meaning set forth in Section 4.03(b).

"Final Order" shall have the meaning set forth in Section 7.01(a).

"Franchise Property" shall have the meaning set forth in Section 2.05(a).

"GAAP" shall have the meaning set forth in Section 1.02.

"Gas Turbines" means the three gas turbines designated as Indian Point Gas Turbine Units 1, 2 and 3.

"Generating Facilities" means the Generating Plants, the Gas Turbines and any additional generating plants, gas turbines or other generating facilities constructed by Buyer after the Closing Date at the site of any Auctioned Assets.

"Generating Plants" means the two nuclear generating units designated as and known as Indian Point Unit 1 and Indian Point Unit 2.

"Governmental Authority" means any federal, state, local, domestic or foreign government or any court,

administrative or regulatory agency, board, committee or commission or other governmental entity or instrumentality, domestic, foreign or supranational or any department thereof.

"Greenfield" means the complete decontamination, dismantlement, and removal of a generating facility such that the NRC operating license for such facility is terminated and the site at which such facility is located is restored to an unrestricted and natural state.

"GT Site" shall have the meaning set forth in Section 2.02(a) (i) (B) (1).

"GT Site Ground Lease" means the GT Site Ground Lease to be entered into between Buyer and Seller in the form of Exhibit A-3.

"Guarantee Agreement" means the Guarantee Agreement to be entered into between Guarantor and Seller substantially in the form of Exhibit F.

"Guarantor" means Entergy International Holdings Ltd LLC, a Delaware limited liability company and an Affiliate of Buyer.

"Hazardous Substances" means (i) any petroleum, petroleum products or byproducts and all other hydrocarbons, petrochemicals, crude oil or any fraction thereof, coal ash, radon gas, asbestos, asbestos-containing material, urea formaldehyde, polychlorinated biphenyls, chlorofluorocarbons and other ozone-depleting substances; (ii) radiation, radioactive materials or wastes, including "low-level" or "high-level radioactive wastes," "source material," "special nuclear material," "byproduct material," "spent nuclear fuel," and "transuranic waste," as those terms are defined under the Atomic Energy Act; and (iii) any chemical, material, substance or waste (including thermal discharges) that is prohibited, limited or regulated by or pursuant to any Environmental Law.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"Income Tax" means any U.S. federal, state, local or foreign Tax or surtax (i) based upon, measured by or calculated with respect to net income, profits or

receipts, including the New York State Gross Receipts Tax (including any municipal gross receipts Taxes and excise Taxes, capital gains Taxes and minimum Taxes) or (ii) based upon, measured by or calculated with respect to multiple bases (including corporate franchise Taxes) if one or more of the bases on which such Tax may be based, measured by or calculated with respect to, is described in clause (i), in each case, together with any interest, penalties, or additions to such Tax.

"Indemnifiable Loss" shall have the meaning set forth in Section 9.01(a).

"Indemnifying Party" shall have the meaning set forth in Section 9.01(c).

"Indemnitee" shall have the meaning set forth in Section 9.01(c).

"Independent Appraiser" shall have the meaning set forth in Section 3.04.

"Indian Point Conveyance Plan" means the ALTA/ACSM Land Title Survey prepared for Consolidated Edison Company of New York, Inc., captioned "Indian Point Generating Station Site Survey" (Sheets 1 - 7) completed on August 2, 2000 (Buyer Parcel - Indian Point) and August 17, 2000 (Buyer Parcel - GT Site), last revised on October 27, 2000, and prepared by Badey & Watson Surveying & Engineering, PC, as may hereafter be amended by Seller in immaterial respects.

"Indian Point Unit 1" means the nuclear generating unit located in the Village of Buchanan, New York designated as and known as Indian Point Unit 1.

"Indian Point Unit 2" means the nuclear generating unit located in the Village of Buchanan, New York designated as and known as Indian Point Unit 2.

"Information Memorandum" means the Information Memorandum dated January 2000 describing the Generating Plants and the Gas Turbines, and the materials delivered with such Information Memorandum, as such Information Memorandum and such materials may have been amended or supplemented.

"Intellectual Property" means all trade secrets, copyrights, copyright applications, trademarks, trademark applications, trade names, service marks,

service mark applications, designs, samples, specifications and know-how owned by Seller.

"Interconnection Facilities" means switching equipment, switchyard controls, protective relays and related facilities of Seller that are used by Seller in connection with the provision of Interconnection Services.

"Interconnection Services" means the service provided by Seller to Buyer to interconnect the Generating Facilities to the Transmission System.

"Inventory" means all materials and supplies (other than fuel, Nuclear Fuel or Spent Nuclear Fuel), spare parts (including the spare parts listed in Schedule 2.02(a)(ii)) and chemical and gas inventories owned by Seller at Closing and relating primarily to or used primarily in the operation of the Generating Plants and the Gas Turbines.

"IRS" means the Internal Revenue Service or any successor thereto.

"ISO" means the New York Independent System Operator or any successor thereto.

"joint rulings" shall have the meaning set forth in Section 6.06(e).

"Knowledge" means the actual, current knowledge (without independent investigation) of a Party's or its Affiliates' board of directors, any of their officers or managers or any of the following persons: Dan Keuter, Connie Wells, Curt Bregar, Renee Millison, Stuart Wentworth, Carl Crawford, Brent Dorsey, Dan Churchman, Jay Brister, Jay Adler, Dan Ropson, Frank Rives or Tom Ober.

"Law" means any statute, law (including common law), treaty, order, judgment, decree, directive, code, ordinance, rule or regulation or similar issuance by a Governmental Authority having the effect of law.

"Local 1-2" shall have the meaning set forth in Section 8.01(a).

"Local 1-2 Collective Bargaining Agreement" shall have the meaning set forth in Section 8.01(b).

"Low-level Radioactive Waste" shall have the meaning set forth in 42 U.S.C.A. § 2021b(9) (1994) and the rules and regulations promulgated thereunder.

"Material Adverse Effect" means any change or effect on the Auctioned Assets that is materially adverse to the business, operations or condition (financial or otherwise) of the Auctioned Assets, taken as a whole, other than (i) any change or effect resulting from changes in the international, national, regional or local wholesale or retail energy, capacity or ancillary services markets, (ii) any change or effect resulting from changes in the international, national, regional or local markets for fuel used or usable in connection with the Generating Facilities, (iii) any change or effect resulting from changes in the national, regional or local electric transmission systems, (iv) any change or effect resulting from any bid cap, price limitation, market power mitigation measure or other Law in respect of transmission services or the wholesale or retail energy, capacity or ancillary services markets adopted or approved (or failed to be adopted or approved) by any Governmental Authority or proposed by any person, (v) any change or effect resulting from any other Law adopted or approved by any Governmental Authority or proposed by any person (other than any change or effect resulting from (a) any New York State Law that becomes effective after the date of this Agreement or (b) any NRC Law that becomes effective after the date of this Agreement and relates solely to the Auctioned Assets), (vi) any change or effect resulting from any regulation, rule, procedure or order adopted or proposed (or failed to be adopted or proposed) by or with respect to, or relating to, the ISO; (vii) any change or effect resulting from any action or measure taken or adopted, or proposed to be taken or adopted, by any local, state, regional, national or international reliability organization and (viii) any materially adverse change in or effect on the Auctioned Assets which is cured by Seller prior to Closing.

"Metaphase" means the Corporate Drawing Management System, which is an information resources system served by Seller's mainframe computer.

"MMS" means the Material Management System, which is an information resources system served by Seller's mainframe computer.

"NEIL" means Nuclear Electric Insurance Limited.

"1975 Deed" shall have the meaning set forth in Section 7.02(j).

"Nitrogen Oxide Allowance" means the authorizations by the NYSDEC under the NOx Budget Trading Program to emit up to one ton of nitrogen oxides during the control period of the specified year or any year thereafter.

"Non-Disputed Amount" shall have the meaning set forth in Section 3.02(b).

"Nonqualified Decommissioning Fund" means the external trust fund that does not meet the requirements of Section 468A of the Code and Treas. Reg. Section 1.468A-5, and which is maintained by Seller with respect to the Auctioned Assets prior to Closing pursuant to the applicable Decommissioning Indenture.

"Non-Union Transition Period" shall have the meaning set forth in Section 8.02(a).

"NPMEI" means the Nuclear Power Material Equipment List, which is a system that uses extract data from PPMIS.

"NRC" means the Nuclear Regulatory Commission or any successor thereto.

"NRC Permits" means all certificates, permits, licenses, consents, approvals and other governmental authorizations issued by the NRC on the basis of which Seller is authorized by the NRC to own, possess, use and operate the Generating Plants and the Gas Turbines prior to Closing, including Facility Operating License Nos. DPR 5 and DPR 26, but not including any Environmental Permits.

"Nuclear Fuel" means all fuel assemblies in the Generating Plants' reactors as of Closing, any irradiated fuel assemblies that have been temporarily removed from the Generating Plants' reactors as of Closing (except any irradiated fuel assemblies that may have been removed from Indian Point Unit 1 for reprocessing prior to Closing), all unirradiated fuel assemblies awaiting insertion into the Generating Plants' reactors and all fuel constituents in any stage of the fuel cycle which are in process for use in the Generating Plants' reactors as of Closing.

"Nuclear Insurance Policies" means all insurance policies carried by or for the benefit of Seller with respect to the Auctioned Assets, including all liability, property damage and business interruption policies in respect thereof. Without limiting the generality of the foregoing, the term "Nuclear Insurance Policies" includes all policies issued or administered by NEIL or ANI.

"NYPA" means the Power Authority of the State of New York or any successor thereto.

"NYSDEC" means the New York State Department of Environmental Conservation or any successor thereto.

"NYSERDA" means the New York State Energy Research Development Agency or any successor thereto.

"Off-Site" means any location except (i) the Buyer Real Estate (and all surface and subsurface elements thereof including soils, surface water and groundwater) and (ii) any location to or under which Hazardous Substances present or Released at or from the Auctioned Assets have migrated.

"Operating Records" shall have the meaning set forth in Section 2.02(a)(vi).

"Parties" and "Party" shall have the respective meanings set forth in the Preamble.

"Patents" means with respect to the patented items or processes relating primarily to, or used primarily in the operation of, the Generating Plants or the Gas Turbines, (i) a royalty-free license from Seller to use such patented items or processes owned by Seller or (ii) Seller's existing license (or any part thereof) or a separate license to the extent required to authorize Buyer's use of such patented items or processes owned by third parties, in each case, at or in connection with the Auctioned Assets in a manner consistent with Seller's use of such patented items or processes pursuant to the terms and conditions of Seller's license.

"Payment Amount" shall have the meaning set forth in Section 6.08.

"Payment Date" shall have the meaning set forth in Section 6.08(b).

"PBGC" shall have the meaning set forth in Section 4.12.

"Permits" means all certificates, permits, licenses, consents, approvals and other governmental authorizations (other than Environmental Permits and NRC Permits) relating primarily to the Auctioned Assets, or the ownership, operation or use thereof.

"Permitted Exceptions" means (i) all exceptions, restrictions, easements, charges, rights-of-way and monetary and nonmonetary encumbrances which are set forth in any Permits, Environmental Permits or NRC Permits; (ii) all statutory liens for current Taxes or assessments not yet delinquent, subject to proration as provided herein; (iii) all mechanics', carriers', workers', repairers' and other similar liens relating to obligations as to which Seller is not in default or the validity of which is being contested in good faith by appropriate proceedings, provided that Seller shall cause the Title Company to omit such liens from the title insurance policy described in Section 7.02; (iv) all zoning, building code, entitlement, conservation restriction and other land use and Environmental Laws by Governmental Authorities; (v) all matters set forth in Schedules B-2 to Certificates of Title Nos. 231-W-08707 and 231-W-10117 issued by First American Title Insurance Company of New York, Inc., both effective as of September 25, 2000 and last revised on October 26, 2000 and November 2, 2000, respectively, provided that the generic exception for "rights of tenants or persons in possession" shall be limited to the rights of tenants or other parties under leases or other agreements which constitute Contracts; (vi) all matters disclosed on the Conveyance Plans; (vii) all Encumbrances or other restrictions created pursuant to this Agreement or any Ancillary Agreement; (viii) all restrictions and regulations imposed by the ISO, any Governmental Authority or any local, state, regional, national or international reliability organization; and (ix) all Encumbrances on, imperfections in or failures of title which do not secure indebtedness for borrowed money and which would not, individually or in the aggregate, reasonably be expected to materially impair the continued use and operation of the Auctioned Assets as currently conducted. Notwithstanding the foregoing, Seller shall discharge or cause the Title Company to omit or insure over all liens which secure indebtedness for borrowed money, judgments against Seller and any other liquidated sums of money capable of precise

determination. Nothing in this definition is intended to affect the obligations of the Parties with respect to Prorated Items.

"person" means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization or Governmental Authority.

"Power Purchase Agreement" means the Power Purchase Agreement dated as of even date herewith between Seller and Buyer.

"PPMIS" means the Power Plant Maintenance Information System, which is an information resources system served by Seller's mainframe computer.

"Price-Anderson Act" means Section 170 of the Atomic Energy Act and related provisions of Section 11 of the Atomic Energy Act.

"Prorated Items" shall have the meaning set forth in Section 2.03(a)(x).

"Protective Relaying System" means the system relating to the Generating Facilities comprised of components collectively used to detect defective power system elements or other conditions of an abnormal nature, initiate appropriate control circuit action in response thereto and isolate the appropriate system elements in order to minimize damage to equipment and interruption to service.

"Prudent Utility Practices" means any of the practices, methods and acts engaged in or approved by a significant portion of the nuclear power generation industry during the relevant time period, or any of the practices, methods or acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable Laws and good business practices, reliability, safety and expedition. Prudent Utility Practices are not intended to be limited to only the optimum practice, method or act to the exclusion of all others, but rather are intended to include practices, methods or acts generally accepted in the nuclear power generation industry.

"PSC" means the New York State Public Service Commission or any successor thereto.

"PUHCA" shall have the meaning set forth in Section 4.03(b).

"Purchase Price" shall have the meaning set forth in Section 3.02(a).

"Qualified Decommissioning Fund" means the external trust fund that meets the requirements of Section 468A of the Code and Treas. Reg. Section 1.468A-5, and which is maintained by Seller with respect to the Auctioned Assets prior to Closing pursuant to the applicable Decommissioning Indenture.

"Release" means (i) any "extraordinary nuclear occurrence" or "nuclear incident," as those terms are defined under the Atomic Energy Act, and (ii) any actual or threatened release, spill, emission, emptying, escape, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into the environment or within any building, structure, facility or fixture.

"Required Capital Expenditures Amount" means:

- (i) if Closing occurs on or after January 1, 2001 but on or prior to March 31, 2001, an amount equal to the product of (A) \$5,120,000 divided by 90 and (B) the number of days, up to a maximum of 90 days, between January 1, 2001 and the Closing Date;
- (ii) if Closing occurs on or after April 1, 2001 but on or prior to June 30, 2001, an amount equal to the sum of (i) \$5,120,000 and (ii) the product of (A) \$7,950,000 divided by 90 and (B) the number of days, up to a maximum of 90 days, between April 1, 2001 and the Closing Date;
- (iii) if Closing occurs on or after July 1, 2001 but on or prior to September 30, 2001, an amount equal to the sum of (i) \$13,070,000 and (ii) the product of (A) \$6,470,000 divided by 90 and (B) the number of days, up to a maximum of 90 days, between July 1, 2001 and the Closing Date;
- (iv) if Closing occurs on or after October 1, 2001 but on or prior to December 31, 2001, an amount equal to the sum of (i) \$19,540,000 and (ii) the product of (A) \$7,380,000

divided by 90 and (B) the number of days, up to a maximum of 90 days, between October 1, 2001 and the Closing Date; and

(v) if Closing occurs on or after January 1, 2002, \$26,920,000.

"Required Contracts" means those contracts, agreements and other legally binding arrangements set forth in Schedule 7.02(d)(i).

"Required Software" means, with respect to the software set forth in Schedule 7.02(d)(ii), Seller's existing license (or any part thereof) or a separate license, in each case, to the extent required to authorize Buyer's use of such software at or in connection with the Auctioned Assets in a manner consistent with Seller's use of such software pursuant to the terms and conditions of Seller's license.

"Restraints" shall have the meaning set forth in Section 7.01(b).

"Retained Assets" shall have the meaning set forth in Section 2.02(b).

"Retained Liabilities" shall have the meaning set forth in Section 2.03(b).

"Revenue Meters" means all meters measuring demand, energy and reactive components, and all pulse isolation relays, pulse conversion relays and associated totalizing and remote access pulse recorder equipment, in each case, required to measure the transfer of energy between the Parties.

"Revocable Consent" shall have the meaning set forth in Section 2.05(a).

"Safstor" means the procedure by which a generating facility is temporarily placed in a safe condition and maintained in that state until it is subsequently decontaminated and dismantled to levels that permit termination of the NRC operating licenses for such facility and release of such facility by the NRC in accordance with applicable NRC regulations.

"Segregated Reimbursement Accounts" shall have the meaning set forth in Section 8.05(b).

"Seller" shall have the meaning set forth in the Preamble.

"Seller Assets" means any property, machinery, equipment, facilities or systems (including Seller Facilities but other than any Protective Relaying System or Substation Interface Cables) that are from time to time owned or leased by Seller or its Affiliates after Closing and are employed by Seller in connection with the performance of the activities contemplated by the Ancillary Agreements.

"Seller Facilities" shall mean the "Seller Facilities" under the Declaration of Easements Agreement.

"Seller Indemnitees" shall have the meaning set forth in Section 9.01(b).

"Seller Material Adverse Effect" means any change, effect, event, occurrence or state of facts that is materially adverse to the business, operations, assets, properties, condition (financial or otherwise), results of operations or prospects of Seller.

"Seller Real Estate" means all real property and leaseholds or other interests in real property of Seller (including the premises on which the Substation is located), other than Buyer Real Estate.

"Seller Required Regulatory Approvals" shall have the meaning set forth in Section 4.03(b).

"Seller's 4.12 Benefits" shall have the meaning set forth in Section 8.02(a).

"Seller's 401(k) Plans" shall have the meaning set forth in Section 8.04(a).

"Seller's Pension Plans" shall have the meaning set forth in Section 8.03(a).

"Seller's Reimbursement Account Plans" shall have the meaning set forth in Section 8.05(b).

"Seller's Severance Plan" shall have the meaning set forth in Section 8.08(a).

"Settlement Agreement" means that certain Settlement Agreement entered into on December 19, 1980, as amended, among Seller, Orange & Rockland Utilities,

Inc., Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation, NYPA, NYSDEC, the Attorney General of the State of New York, the United States Environmental Protection Agency, Hudson River Fisherman's Association (currently d/b/a the Hudson Riverkeeper Fund, Inc.), Scenic Hudson Preservation Conference (currently Scenic Hudson, Inc.) and the National Resources Defense Council, in connection with their disputes relating to the National Pollutant Discharge Elimination System permits issued to certain utilities in 1975, which, by its terms, has expired.

"Special Affected Employee" shall have the meaning set forth in Section 8.01(a).

"Spent Nuclear Fuel" means Nuclear Fuel that has been withdrawn or discharged from a nuclear reactor following irradiation and has not been chemically separated into its constituent elements by reprocessing. "Spent Nuclear Fuel" includes the special nuclear material, byproduct material, source material and other radioactive materials associated with nuclear fuel assemblies.

"Spent Nuclear Fuel Fees" means those fees assessed on electricity generated at the Generating Plants and sold, as provided in the Nuclear Waste Policy Act of 1982, as amended, and the rules and regulations promulgated thereunder.

"Substation" shall have the meaning set forth in Section 2.02(b)(i).

"Substation Interface Cables" means (i) control cables and associated conduits located in the Substation which connect the Generating Facilities with Buyer Assets located in the Substation and (ii) control and low voltage power cables and associated conduits located in the Substation which connect Seller Assets with Buyer Assets.

"Tax Basis" means the adjusted Tax basis determined for U.S. federal income Tax purposes under Section 1011(a) of the Code.

"Tax Benefit" means, with respect to any Indemnifiable Loss for any person, the positive excess, if any, of the Tax liability of such person without regard to such Indemnifiable Loss over the Tax liability of such person taking into account such

Indemnifiable Loss, with all other circumstances remaining unchanged.

"Tax Claim" shall have the meaning set forth in Section 9.03(a).

"Tax Contest" shall have the meaning set forth in Section 9.03(c).

"Tax Cost" means, with respect to any indemnity payment for any person, the positive excess, if any, of the Tax liability of such person taking such indemnity payment into account over the Tax liability of such person without regard to such payment, with all other circumstances remaining unchanged.

"Taxes" means all taxes, surtaxes, charges, fees, levies, penalties or other assessments imposed by any U.S. federal, state or local or foreign taxing authority, including income tax, excise, property, sales, transfer, franchise, special franchise, payroll, recording, withholding, social security or other taxes, or any liability for taxes incurred by reason of joining in the filing of any consolidated, combined or unitary Tax Returns, in each case, including any interest, penalties or additions attributable thereto.

"Tax Refund Suit" shall have the meaning set forth in Section 9.03(b).

"Tax Return" means any return, report, information return or other document (including any related or supporting information) required to be supplied to any authority with respect to Taxes.

"Termination Date" shall have the meaning set forth in Section 10.01(b).

"Third Party Claim" shall have the meaning set forth in Section 9.02(a).

"Title Company" means First American Title Insurance Company of New York, Inc. and Commonwealth Land Title Insurance Company on a 50/50 coinsurance basis or one or more other title insurance companies reasonably acceptable to Buyer and Seller.

"TNMS" means the Tag Numbering Management System, which is an information resources system served by Seller's mainframe computer.

"Toddville Conveyance Plan" means the ALTA/ACSM Land Title Survey prepared for Seller captioned "Toddville School Site Survey" (Sheet 1 of 1) completed on September 15, 2000 by Badey & Watson Surveying & Engineering, PC, as may hereafter be amended by Seller in immaterial respects.

"Toddville Training Center" means the training facility owned by Seller and located at Three Locust Avenue in the Town of Cortlandt, New York.

"Transferable Permits" shall have the meaning set forth in Section 2.02(a)(v).

"Transmission System" shall have the meaning set forth in Section 2.02(b)(i).

"Trustee" means the trustee of the Decommissioning Funds appointed by Seller pursuant to the applicable Decommissioning Indenture.

"Union Transition Period" shall have the meaning set forth in Section 8.01(b).

"Updated Schedules" shall have the meaning set forth in Section 6.17.

"Westinghouse Contract" shall have the meaning set forth in Section 6.01(e).

SECTION 1.02. Accounting Terms. Any accounting terms used in this Agreement or the Ancillary Agreements shall, unless otherwise specifically provided, have the meanings customarily given them in accordance with United States generally accepted accounting principles ("GAAP") and all financial computations hereunder or thereunder shall, unless otherwise specifically provided, be computed in accordance with GAAP consistently applied.

ARTICLE II

Purchase and Sale; Assumption of Certain Liabilities

SECTION 2.01. Purchase and Sale. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, at Closing, Seller agrees to sell, assign, convey, transfer and deliver or cause to be sold, assigned, conveyed, transferred or delivered to Buyer, and Buyer agrees to purchase, assume and acquire from Seller all the Auctioned Assets.

SECTION 2.02. Auctioned Assets and Retained Assets. (a) Auctioned Assets. The term "Auctioned Assets" means all the assets, real and personal property, goodwill and rights of Seller of whatever kind and nature, whether tangible or intangible, in each case, constituting, relating primarily to, or used primarily in the operation of, the Generating Plants or the Gas Turbines, other than the Retained Assets, including:

(i) (A) all land owned by Seller relating primarily to the operations of the Generating Plants shown on the Indian Point Conveyance Plan as "Buyer Parcel - Indian Point" and described in Schedule 2.02(a)(i)(A) together with all buildings and improvements erected thereon, (B) both (1) the leasehold interest in the land shown on the Indian Point Conveyance Plan as "Buyer Parcel - GT Site" and described in Schedule 2.02(a)(i)(B) (the "GT Site") to be created pursuant to the GT Site Ground Lease, and (2) all buildings and improvements erected on the GT Site, and (C) all land owned by Seller constituting, relating primarily to, or used primarily in the operation of the Toddville Training Center shown on the Toddville Conveyance Plan and described in Schedule 2.02(a)(i)(C) together with all buildings and improvements erected thereon, subject in each case to all Permitted Exceptions (the "Buyer Real Estate");

(ii) subject, in each case, to Permitted Exceptions, all inventories of fuels (relating primarily to, or used primarily in the operation of, the Generating Plants or the Gas Turbines) and Nuclear Fuel, in each case owned by Seller on the Closing Date, Spent Nuclear Fuel located on Buyer Real Estate on the Closing Date, and all Inventory, in each case other than assets that are used, consumed, replaced or disposed of in the ordinary course of business consistent with past practice or as permitted by this Agreement, together with all warranties from third parties, including manufacturers and vendors relating thereto, to the extent transferable;

(iii) subject, in each case, to Permitted Exceptions, all machinery (mobile or otherwise), equipment, facilities, furniture and other personal property relating primarily to, or used primarily in the operation of, the Generating Plants or the Gas Turbines or the Toddville Training Center, including the items of personal property listed in Schedule 2.02(a)(iii), together with all warranties from third parties, including manufacturers and vendors relating

thereto, to the extent transferable, other than assets that are used, consumed, replaced or disposed of in the ordinary course of business consistent with past practice or as permitted by this Agreement;

(iv) subject to Sections 2.02(b)(x) and 2.04, all right, title and interest of Seller in, to and under all contracts, agreements, leases, licenses (whether Seller is lessor, lessee, licensor or licensee thereunder), commitments, and all other legally binding arrangements (A) set forth in Schedule 2.02(a)(iv), (B) associated with emergency preparedness (including those relating to emergency sirens or radiation monitors), (C) between Seller and NYPA primarily related to the operation or maintenance of the Auctioned Assets, but excluding any such contracts, agreements, leases, licenses, or commitments pertaining to Seller's obligations relating to the Transmission System, the Substation or the supply of power or (D) entered into by Seller between the date of this Agreement and Closing in accordance with Section 6.01, in each case, to the extent they have not expired prior to Closing (the "Contracts");

(v) the Permits, Environmental Permits and NRC Permits that are transferred or transferable by Seller to Buyer by assignment or otherwise, or which will pass to Buyer as successor in title to the Generating Plants or Gas Turbines (collectively, the "Transferable Permits"), including the Transferable Permits set forth in Schedule 2.02(a)(v);

(vi) (A) data, information, books, operating records, operating, safety, quality assurance and maintenance manuals, engineering design information and plans, blueprints and as-built plans, specifications, procedures, facility compliance plans, environmental procedures and other records of Seller relating primarily to the design, construction, licensing, regulation, operation or Decommissioning of the Auctioned Assets, whether existing in paper, magnetic or electronic form, including third party designs, drawings and specifications used in, or necessary for, the licensing, operation or Decommissioning of the Auctioned Assets (collectively, "Operating Records"), (B) to the extent permitted or required by Law, all personnel files relating to Continued Employees, including files that pertain to (1) skill and development training and resumes, (2) seniority histories, (3) salary and benefit information, (4) active medical restriction forms, (5) records that

are required to be retained by Buyer pursuant to 10 C.F.R. Section 26 and (6) any other matters, but not including any performance evaluations, disciplinary records, fitness for duty reports or Occupational Safety and Health Act medical reports (other than such evaluations, records or reports necessary for Buyer to satisfy the requirements of NRC Law or any NRC permit) (collectively, the "Continued Employee Records") and (C) all accounting and other records related to the Decommissioning Funds (other than general ledger accounting records) (collectively, the "Decommissioning Accounting Records"); provided, however, that Seller shall be permitted to retain copies to the extent it provides Buyer with copies or originals of same, of all Operating Records, Continued Employee Records and Decommissioning Accounting Records;

(vii) subject to Sections 2.04 and 7.02(d), the Patents, all rights of Seller in and to the name "Indian Point 2 Nuclear Power Station" and any related or similar names and the right to use at, or in connection with, the Generating Plants or the Gas Turbines all other Intellectual Property relating primarily to, or used primarily in the operation of, the Generating Plants or the Gas Turbines;

(viii) the assets of the Decommissioning Funds contemplated by Sections 6.07(a) and (b) to be transferred to Buyer;

(ix) any credit or credits associated with assessments for the disposal of Low-level Radioactive Waste accumulated by Seller prior to Closing pursuant to the New York Public Authorities Law Section 1854-d.2, as amended, to the extent assignable to Buyer;

(x) the Nitrogen Oxide Allowances set forth in Schedule 2.02(a) (x) that are allocated by NYSDEC to the Gas Turbines for the control periods in 2001 and 2002, but less any such Nitrogen Oxide Allowances (or portions thereof) that are used by Seller in connection with operating the Gas Turbines prior to Closing consistent with past practices and system reliability requirements of Seller (it being understood that, for purposes of this Agreement, one Nitrogen Oxide Allowance shall be deemed "used" for each ton of nitrogen oxide emitted from the Gas Turbines between May 1 of any year and September 30 of such year, inclusive);

(xi) all claims or causes of action for the refund or return of any payments made or to be made (including any Spent Nuclear Fuel Fees paid or payable) pursuant to the DOE Standard Contract with regard to electricity generated at the Generating Plants and sold on or prior to Closing, but specifically excluding any claims or causes of action in respect of damages to property or economic loss related or pertaining to the Department of Energy's breach or default under the DOE Standard Contract accrued prior to Closing;

(xii) to the extent transferable to Buyer, Seller's ANI primary nuclear liability policy (facility policy), secondary financial protection and master nuclear worker liability policy (master worker policy), and all rights to premium refunds or premium returns (including shutdown credits and premium returns under the Industry Credit Rating Program) that relate to premiums paid by Buyer (including premiums which are Prorated Items, to the extent paid by Buyer) for periods after Closing pursuant to such policies; and

(xiii) Seller's claims and rights against any third party arising out of or relating to any of the Assumed Obligations.

(b) Retained Assets. The term "Retained Assets" means:

(i) except (A) as set forth in Schedule 2.02(a) (iii) or (B) as located on Buyer Real Estate and not set forth in Schedule 2.02(b) (i), all Interconnection Facilities and transmission and distribution assets owned, controlled or operated by Seller for purposes of providing transmission service (including point-to-point transmission service), network integration service and distribution service and other related purposes, including the real property and substation machinery, equipment and facilities located at the Buchanan Substation (the "Substation") used in controlling continuity between the Generating Plants and Gas Turbines and the transmission and distribution facilities and for other purposes (the "Transmission System");

(ii) (A) all Revenue Meters installed by Seller; (B) all Communications Equipment and related support equipment (1) located on Buyer Real Estate or temporarily removed from Buyer Real Estate for repairs, servicing or maintenance and listed in Schedule 2.02(b) (ii) (B) or acquired by Seller after the date of

this Agreement and designated by Seller as a Retained Asset or (2) located on Seller Real Estate or temporarily removed from Seller Real Estate for repairs, servicing or maintenance; and (C) all Protective Relaying Systems not located on Buyer Real Estate;

(iii) except as set forth in Section 2.02(a)(viii), all cash, cash equivalents, bank deposits and accounts receivable held or owned by Seller (including Seller's account balances with NEIL);

(iv) (A) all mainframe computers of Seller and (B) all Intellectual Property relating primarily to any other Retained Assets or any Retained Liabilities;

(v) the names "Consolidated Edison", "Con Edison", "Con Ed", "Consolidated Edison Company", "Consolidated Edison Company of New York, Inc.", "Consolidated Edison, Inc.", "New York Edison", "Brooklyn Edison", "Staten Island Edison" and "Edison" and any related or similar trade names, trademarks, service marks or logos (and any rights to and in the same, including any right to use the same);

(vi) subject to Section 6.06(c), any refund or credit related to Taxes or sewer rents or water charges or any other liabilities or obligations in respect of the Auctioned Assets, in each case, attributable to periods (or portions thereof) prior to Closing;

(vii) except as set forth in Section 2.02(a)(xii), (A) all insurance policies of Seller related to the Auctioned Assets, including all Nuclear Insurance Policies, and (B) all rights to distributions, credits (including shutdown credits), premium refunds or premium returns (including shutdown credits and premium returns under the Industry Credit Rating Program) under all insurance policies, including all such rights to (i) Seller's member insurance accounts, policyholder insurance records and policyholder percentages under its Nuclear Insurance Policies and (ii) Seller's future distributions, credits, premium refunds or premium returns from its Nuclear Insurance Policies;

(viii) all claims or causes of action for refunds of Department of Energy Decontamination and Decommissioning Fees, in each case, paid by Seller as contemplated by Section 2.03(b)(iv);

(ix) all personnel records (other than Continued Employee Records) and all other records (other than Operating Records and Decommissioning Accounting Records);

(x) all claims or causes of action in respect of damages to property or economic loss related or pertaining to the Department of Energy's breach or default under the DOE Standard Contract accrued prior to Closing, but specifically excluding any claims or causes of action for the refund or return of any payments made or to be made (including any Spent Nuclear Fuel Fees paid or payable) pursuant to the DOE Standard Contract with regard to electricity generated at the Generating Plants and sold on or prior to Closing;

(xi) all emission reduction credits, sulfur dioxide allowances and Nitrogen Oxide Allowances that relate to the Retained Assets or any other of Seller's assets that are not Auctioned Assets (excluding, for clarification, any Nitrogen Oxide Allowances allocated by NYSDEC to the Gas Turbines for periods after Closing), and, except as set forth in Schedule 2.02(a)(x) and except as set forth in Section 2.02(a)(ix), all other environmental related allowances and credits of any nature held or possessed by Seller; and

(xii) any other asset that is not described in this Agreement as an Auctioned Asset.

SECTION 2.03. Assumed Obligations and Retained Liabilities. (a) Assumed Obligations. At Closing, Buyer shall assume, and after Closing, shall discharge, all of the following liabilities and obligations, direct or indirect, known or unknown, absolute or contingent, which relate to the Auctioned Assets or are otherwise specified below (collectively, the "Assumed Obligations"):

(i) except as set forth in Section 2.03(b)(ii), any liabilities and obligations under the Contracts, except, in each case, to the extent such liabilities and obligations, but for a breach or default by Seller prior to Closing, would have been paid, performed or otherwise discharged on or prior to Closing, or to the extent the same arise out of any such breach or default;

(ii) any liabilities and obligations for goods delivered or services rendered, in the ordinary course

of business, after Closing to, or for the benefit of, Buyer or the Auctioned Assets; provided, however, that Buyer shall not be obligated to assume any liabilities and obligations for any such goods and services to the extent the same are included in the determination of the adjustment of the Purchase Price pursuant to Sections 3.02(c) (i), (ii) and (v);

(iii) except as set forth in Sections 2.03(b) (iii), 2.03(b) (v) and 2.03(b) (vi), any Environmental Liability, whether arising, accruing or occurring prior to, on, or after Closing;

(iv) any liabilities and obligations in respect of amounts owing under the DOE Standard Contract, including any Spent Nuclear Fuel Fees, and any other fees and expenses, in each case, associated with electricity generated at the Generating Facilities and sold after the Closing Date;

(v) any liabilities and obligations (including any Environmental Liabilities) in respect of (A) Decommissioning following permanent cessation of operations or otherwise, (B) the management, storage, removal, transportation and disposal of Spent Nuclear Fuel located in, on or at the Generating Facilities after Closing, and (C) any other disposition of the Auctioned Assets after Closing;

(vi) (A) any liabilities and obligations for any ANI or Price-Anderson Act secondary financial protection retrospective premium obligations in connection with the ANI or Price-Anderson Act policies and financial assurance or protection applicable to any of the Generating Facilities for (i) any nuclear worker liability attributable to employment by Seller on or prior to Closing or (ii) for any third party nuclear liability arising out of any incident or occurrence on or prior to Closing (it being agreed that if Seller is unable to cause the assignment of all or any part of such retrospective premium obligations, Seller shall remain primarily liable for such obligations and Buyer shall indemnify Seller therefor pursuant to Section 9.01(b)) and (B) any liabilities and obligations of Seller for retrospective premium obligations arising on or after Closing under Seller's NEIL insurance policies applicable to any of the Generating Facilities;

(vii) except as set forth in Section 2.03(b) (v), any liabilities and obligations with respect to the Permits

and the NRC Permits to the extent arising from events occurring after Closing;

(viii) (A) all wages, overtime, employment Taxes, severance pay, transition payments, workers compensation benefits, sick pay, health care continuation coverage obligations under COBRA, occupational safety and health liabilities or other similar liabilities and obligations in respect of Continued Employees to the extent arising from events occurring after Closing, and (B) all other liabilities and obligations with respect to the Continued Employees for which Buyer is responsible pursuant to Article VIII;

(ix) except for Environmental Liabilities the allocation of which is governed by other provisions of Section 2.03(a) and by Section 2.03(b), any liabilities and obligations in respect of (A) any claims or causes of action by any person in respect of damages to property, personal injury, death or economic loss relating to, resulting from or arising out of the Auctioned Assets, or (B) any claims or causes of action by any Continued Employees in respect of discrimination, retaliation, wrongful discharge, unfair labor practice or other employment-related matter, in the case of each of the foregoing clauses (A) and (B), to the extent arising from events occurring after Closing;

(x) any liabilities and obligations, with respect to the periods that include the Closing Date, with respect to real or personal property rent, Taxes based on the ownership or use of property, utilities charges and similar charges, in each case, relating primarily to the operations of the Generating Plants or the Gas Turbines or the Toddville Training Center, and salaries, wages and other costs and expenses in respect of Continued Employees (collectively, the "Prorated Items"), to the extent such Prorated Items relate to the period after Closing, including (A) personal property Taxes, real estate and occupancy Taxes, assessments and other charges, (B) rent and all other items payable by Seller under any Contract, (C) any fees with respect to any Transferable Permit, (D) sewer rents and charges for water, telephone, electricity and other utilities and (E) insurance premiums for the insurance described in Section 2.02(a)(xii), in each case, calculated by multiplying the amount of any such Prorated Item by a fraction the numerator of which is the number of days (or portions thereof) in such period

after Closing and the denominator of which is the number of days in such period;

(xi) any liabilities and obligations in respect of Taxes (other than Prorated Items) attributable to the Auctioned Assets related to Taxable periods (or portions thereof) beginning after Closing;

(xii) except for Environmental Liabilities the allocation of which is governed by other provisions of Section 2.03(a) and by Section 2.03(b), any liabilities and obligations arising after Closing in respect of damage to property, personal injury, death or economic loss relating to, resulting from or arising out of any Protective Relaying System or Substation Interface Cables owned, maintained or controlled by Seller, regardless of whether such liabilities or obligations are caused by a Seller Indemnatee or a Buyer Indemnatee (except where caused by the gross negligence or wilful misconduct of a Seller Indemnatee);

(xiii) any other liabilities and obligations expressly allocated to Buyer or ENO in this Agreement or in any Ancillary Agreement; and

(xiv) except as otherwise expressly set forth in this Agreement or any Ancillary Agreement, any other liabilities and obligations to the extent arising from or relating primarily to the use, ownership, lease, operation, maintenance or control of the Auctioned Assets after Closing.

(b) Retained Liabilities. The term "Retained Liabilities" means the following liabilities and obligations, direct or indirect, known or unknown, absolute or contingent, which relate to the Retained Assets or are otherwise specified below:

(i) any liabilities and obligations of Seller to the extent arising from any Retained Assets (other than as contemplated by Section 2.03(a)(xii));

(ii) any liabilities and obligations of Seller, including under Contracts, for goods delivered or services rendered prior to Closing;

(iii) (A) any liabilities and obligations of Seller under or related to any Environmental Law to the extent arising as a result of or in connection with the Off-Site remediation, transportation, storage, Release, handling or recycling of, or arrangement for such

activities with respect to, Hazardous Substances prior to Closing, in connection with the ownership or operation of the Auctioned Assets or (B) any liabilities and obligations of Seller for any loss of life or injury to persons or property to the extent arising from any Release of Hazardous Substances to the environment from the leak that occurred on February 15, 2000 on No. 24 steam generator at Indian Point Unit 2, but only to the extent that any such liabilities or obligations are in excess of the proceeds or benefits recovered or recoverable by or paid or available to Buyer under any insurance policies, including those transferred to Buyer pursuant to Section 2.02(a)(xii), or pursuant to the Price-Anderson Act;

(iv) any liabilities and obligations of Seller in respect of (A) amounts owing under the DOE Standard Contract, including any Spent Nuclear Fuel Fees associated with electricity generated at the Generating Facilities and sold prior to Closing and (B) any Department of Energy Decontamination and Decommissioning Fees accrued for periods prior to Closing under 42 U.S.C.A. § 2297g-1;

(v) any monetary fines (excluding (A) natural resource damages, (B) cleanup or remediation costs and (C) other costs of a similar nature) imposed by a Governmental Authority to the extent resulting from an investigation, proceeding or inspection before or by a Governmental Authority relating to actions or omissions or alleged actions or omissions of Seller prior to Closing;

(vi) any liabilities and obligations of Seller for any loss of life or injury to persons or property to the extent arising from exposure to asbestos or asbestos-containing materials at the Auctioned Assets prior to Closing;

(vii) (A) all wages, overtime, employment Taxes, severance pay, transition payments, workers compensation benefits, sick pay, health care continuation coverage obligations under COBRA, occupational safety and health liabilities or other similar liabilities and obligations in respect of Affected Employees to the extent arising from events occurring prior to Closing and (B) all other liabilities and obligations with respect to the Affected Employees for which Seller is responsible pursuant to Article VIII;

(viii) except for Environmental Liabilities the allocation of which is governed by other provisions of Section 2.03(a) and by Section 2.03(b) and except for any liabilities and obligations to which Section 2.03(a)(xii) applies, any liabilities and obligations in respect of (A) any claims or causes of action by any person in respect of damages to property, personal injury, death or economic loss relating to, resulting from or arising out of the Auctioned Assets, or (B) any claims or causes of action by any Affected Employees in respect of discrimination, retaliation, wrongful discharge, unfair labor practice or other employment-related matter, in the case of each of the foregoing clauses (A) and (B), to the extent arising from acts or omissions of Seller prior to Closing;

(ix) any liabilities and obligations, with respect to the period prior to Closing, for the Prorated Items, calculated as set forth in Section 2.03(a)(x);

(x) any liabilities and obligations in respect of Taxes (other than Prorated Items) attributable to the Auctioned Assets related to Taxable periods (or portions thereof) ending before Closing, including Income Taxes attributable to income realized by Seller pursuant to the transactions contemplated by this Agreement;

(xi) any liabilities and obligations arising after the date of this Agreement in respect of which Seller has provided pursuant to Section 6.01(d)(ii) that such liabilities and obligations shall not be assumed or retained by Buyer;

(xii) any other liabilities and obligations expressly allocated to Seller in this Agreement or in any Ancillary Agreement;

(xiii) any mortgages, pledges, liens, security interests and conditional and installment sale agreements, in each case to the extent in existence prior to Closing and other than any Permitted Exceptions; and

(xiv) except as otherwise expressly set forth in this Agreement or any Ancillary Agreement, any other liabilities and obligations to the extent arising from or relating primarily to the use, ownership, lease, operation, maintenance or control of the Auctioned Assets prior to Closing.

SECTION 2.04. Third Party Consents. Seller and Buyer agree that if any consent to an assignment of any Contract, warranty or Patent shall not be obtained or if any attempted assignment would in Seller's reasonable opinion be ineffective or would impair any material rights and obligations of Buyer under such Contract, warranty or Patent, as applicable, so that Buyer would not acquire the benefit of all such rights and obligations, Seller, to the maximum extent permitted by Law and such Contract, warranty or Patent, as applicable, shall after Closing appoint Buyer to be Seller's representative and agent with respect to such Contract, warranty or Patent, as applicable, and Seller shall, to the maximum extent permitted by Law and such Contract, warranty or Patent, as applicable, enter into such reasonable arrangements with Buyer as are necessary to provide Buyer with the benefits and obligations of such Contract, warranty or Patent, as applicable; provided, however, that Seller shall have the option to terminate any such Contract in accordance with Section 6.04(g) or any Patent that constitutes a license authorizing Seller's use of patented items or processes owned by third parties. Seller shall use its reasonable best efforts after Closing to obtain an assignment of each such Contract, warranty or Patent, as applicable, to Buyer and Buyer shall cooperate in good faith in connection with Seller's efforts. The exercise by Buyer and Seller of the terms of this Section 2.04 prior to Closing shall in no event constitute a waiver of the conditions to Closing set forth in Section 7.02(d).

SECTION 2.05. Franchise Property. (a) Notwithstanding Section 2.02(a) (i), (ii) and (iii), to the extent it would be unlawful for Buyer to operate, use or maintain any of the property listed in Schedule 2.05(a) (collectively, the "Franchise Property") without Buyer obtaining from the appropriate Governmental Authority a revocable consent, franchise agreement or other arrangement permitting Buyer to hold title to the Franchise Property (a "Revocable Consent"), (i) Buyer shall use its reasonable best efforts to cause a Revocable Consent to be entered into prior to Closing, including filing a petition or petitions with the appropriate Governmental Authority in respect of such Revocable Consent, and Seller shall cooperate in good faith in connection therewith, (ii) if such Revocable Consent has not been obtained by Buyer prior to Closing (A) title to the Franchise Property shall be deemed not to be transferred at Closing, (B) Seller shall, after Closing, appoint Buyer to be Seller's representative with respect to the Franchise Property, (C) Seller shall operate, use and maintain the Franchise Property at Buyer's expense and Buyer shall pay all real and personal property taxes applicable

thereto and (D) Buyer shall use its reasonable best efforts after Closing to cause such Revocable Consent to be entered into, at which time title to the Franchise Property shall be deemed transferred from Seller to Buyer pursuant to this Agreement, and Seller shall cooperate in good faith in connection therewith and (iii) Buyer shall pay all fees, charges and other expenses in connection with such Revocable Consent.

(b) For purposes of (i) the Ancillary Agreements and Sections 2.03, 9.01 and 9.02 of this Agreement, the terms "Auctioned Assets" and "Buyer Facilities" shall in any event each be deemed to include the Franchise Property and (ii) the Franchise Property shall in any event be deemed to be owned by Buyer.

ARTICLE III

Closing

SECTION 3.01. Time and Place of Closing. Upon the terms and subject to the satisfaction of the conditions contained in Article VII, the closing of the sale of the Auctioned Assets contemplated by this Agreement (the "Closing") will take place on such date as the Parties may agree, which date shall be as soon as practicable, but no later than ten Business Days, following the date on which all of the conditions set forth in Article VII have been satisfied or waived by the Party or Parties for whose benefit such conditions exist, at the offices of Cravath, Swaine & Moore in New York City or at such other place or time as the Parties may agree. The date at which Closing actually occurs is hereinafter referred to as the "Closing Date" and Closing shall be effective for all purposes herein as of 12:00 noon New York City time (or such other time as the parties may agree) on such date.

SECTION 3.02. Purchase Price. (a) The purchase price for the Auctioned Assets shall be \$502,000,000, as adjusted pursuant to Sections 3.02(c) below (as adjusted, the "Purchase Price").

(b) At Closing, Buyer will pay or cause to be paid to Seller by wire transfer of immediately available funds to an account previously designated in writing by Seller an amount in United States dollars equal to the Purchase Price, adjusted in accordance with and as contemplated by Section 3.02(d) for amounts not in dispute (as adjusted, the "Non-Disputed Amount").

(c) The Purchase Price shall be adjusted as follows:

(i) the Purchase Price shall be increased by the book value, as reflected on the books of Seller as of Closing, of all fuel (including Nuclear Fuel) inventory included in the Auctioned Assets;

(ii) the Purchase Price shall be adjusted by the amount of the Prorated Items, to the extent such Prorated Items can be reasonably determined at such time;

(iii) the Purchase Price shall be increased by the amount, if any, by which the Fair Market Value of the assets of the Qualified Decommissioning Fund transferred to Buyer pursuant to Section 6.07(a) is greater than \$430,000,000;

(iv) if Seller fails to spend the Required Capital Expenditures Amount in connection with the capital projects set forth on Schedule 3.02(c)(iv), then the Purchase Price shall be decreased by an amount equal to the difference between (A) the Required Capital Expenditures Amount and (B) the aggregate amount of capital expenditures made by Seller on or after January 1, 2001 through the earlier of December 31, 2001 and the Closing Date in connection with the capital projects set forth on Schedule 3.02(c)(iv);

(v) the Purchase Price shall be (A) increased by the amount that the book value of all Inventories (determined in accordance with GAAP) as of Closing is greater than \$37,590,000, and (B) decreased by the amount that the book value of such Inventories (determined in accordance with GAAP) as of Closing is less than \$34,010,000;

(vi) if the work specified in Schedule 3.02(c)(vi) has not been completed and paid for by Seller prior to Closing, then the Purchase Price shall be decreased by an amount equal to (A) \$207,000 minus (B) the aggregate amount paid by Seller as of Closing in connection with the work specified in Schedule 3.02(c)(vi);

(vii) if the reasonably estimated cost as of Closing to dispose of Low-level Radioactive Waste (other than as provided on Schedule 3.02(c)(vii)) that is stored on-site at the Buyer Real Estate as of Closing for the purpose of off-site disposal exceeds \$310,000, then the Purchase Price shall be decreased by \$1.00 for every

dollar that such reasonably estimated cost of such disposal exceeds \$310,000; provided, however, that the calculation of such reasonably estimated costs of such disposal shall be determined by reference to applicable industry practices and prices prevailing as of Closing; and

(viii) if Buyer elects prior to Closing to purchase insurance to cover, among other things, the off-site migration or Release of Hazardous Substances from the Auctioned Assets, then the Purchase Price shall be decreased by the lesser of the cost of the premium for such insurance or \$200,000; provided, that nothing in this Section 3.02(c) (viii) is intended to modify or alter the Parties' retention or assumption of liabilities and obligations, as the case may be, under Section 2.03.

(d) At least 20 Business Days prior to the Closing Date, Seller shall prepare and deliver to Buyer an estimated closing statement (the "Estimated Closing Statement") that shall set forth Seller's good faith estimate of the adjustments required by Section 3.02(c) (the "Estimated Adjustment Amount") as of Closing. Within 10 Business Days following the delivery of the Estimated Closing Statement by Seller to Buyer, Buyer may object in good faith to the Estimated Adjustment Amount in writing. If Buyer so objects to the Estimated Adjustment Amount, the Parties shall attempt to resolve such dispute through good faith negotiation. If the Parties are unable to resolve such dispute before five Business Days prior to the Closing Date (or if Buyer fails to object to the Estimated Adjustment Amount by the date specified) the Purchase Price shall be adjusted for purposes of Closing by, as applicable, the amount of the Estimated Adjustment Amount not disputed in good faith by Buyer or by the Estimated Adjustment Amount (if the Buyer fails to object to the Estimated Adjustment Amount by the date specified), and the amount, if any, in good faith dispute shall be reserved for resolution in accordance with Section 3.03 below.

SECTION 3.03. Post-Closing Adjustment.

(a) Within 20 Business Days after Closing, Seller shall prepare and deliver to Buyer a statement (an "Adjustment Statement") which reflects the calculation of the Purchase Price taking into account the adjustments required by Section 3.02(c) as of Closing (the "Adjustment Amount"), and, upon request of Buyer, related accounting material used by Seller to prepare the Adjustment Statement. The Adjustment Statement shall be prepared using GAAP and the fuel adjustment set forth in Section 3.02(c) (i) with respect

to Nuclear Fuel shall be prepared using the same unit cost methodology that Seller has historically used to calculate the book value of its Nuclear Fuel as set forth in Schedule 3.03(a). Buyer agrees to cooperate with Seller in connection with the preparation of the Adjustment Statement and related information, and shall provide to Seller such access, books, records and information as may be reasonably requested from time to time.

(b) Buyer may in good faith dispute the Adjustment Statement, by notifying Seller in writing of the disputed amount, and the basis of such dispute, within 20 Business Days of Buyer's receipt of the Adjustment Statement. Buyer shall have no right to dispute the unit cost methodology (as set forth in Schedule 3.03(a)) used to calculate the book value of the Nuclear Fuel inventory or the appropriateness, under GAAP or otherwise, of using such methodology. In the event of a dispute, Buyer and Seller shall attempt to reconcile their differences and any resolution by them as to any disputed amounts shall be final, binding and conclusive on the Parties. If Buyer and Seller are unable to reach a resolution of such differences within 20 Business Days of receipt of Buyer's written notice of dispute to Seller, Buyer and Seller shall submit the amounts remaining in dispute for determination and resolution to an independent accounting firm of recognized national standing reasonably acceptable to Seller and Buyer (the "Accountants"), which shall be instructed to determine and report to the Parties, within 20 Business Days after such submission, upon such remaining disputed amounts, and such report shall be final, binding and conclusive on the Parties with respect to the amounts disputed in respect of the Adjustment Amount. The fees and disbursements of the Accountants in connection with the resolution of such disputed amounts shall be borne by the Party whose position generally did not prevail, or if the Accountants determine that neither Party could be fairly found to be the prevailing party, then such fees and disbursements shall be borne equally by Buyer and Seller.

(c) If the Adjustment Amount is greater or less than the Non-Disputed Amount, then on the Adjustment Date (as defined below), (A) to the extent that the Adjustment Amount exceeds the Non-Disputed Amount, Buyer shall pay to Seller the amount of such excess and (B) to the extent that the Adjustment Amount is less than the Non-Disputed Amount, Seller shall pay to Buyer the amount of such deficiency.

"Adjustment Date" means (1) to the extent that Buyer does not dispute the Adjustment Statement pursuant to Section 3.03(b), the twenty-third Business Day following

Buyer's receipt of the Adjustment Statement or (2) to the extent that Buyer disputes the Adjustment Statement pursuant to Section 3.03(b), the third Business Day following either the resolution of such dispute by the Parties or a final determination by the Accountants in accordance with Section 3.03(b). Any amount paid under this Section 3.03(c) shall be paid with interest for the period commencing on the Closing Date through the date of payment, calculated at the prime rate of the Chase Manhattan Bank in effect on the Closing Date, and in cash by wire transfer of immediately available funds.

SECTION 3.04. Allocation of Consideration. Buyer and Seller shall use their good faith efforts to agree on an allocation (the "Allocation") among the Auctioned Assets of the consideration paid for Nuclear Fuel, the Assumed Liabilities and such other consideration paid by Buyer pursuant to this Agreement consistent with Section 1060 of the Code and the treasury regulations thereunder and private letter rulings issued by the IRS within 120 days of the date of this Agreement (or such later date as the Parties may mutually agree) but in no event fewer than 30 days prior to Closing. Buyer and Seller may obtain the services of an independent engineer or appraiser ("Independent Appraiser") to assist in determining the fair market value of the Auctioned Assets and such other consideration paid by Buyer solely for purposes of the Allocation under this Section 3.04. If such an appraisal is made, Buyer and Seller shall accept such Independent Appraiser's determination of fair market value of the Auctioned Assets and such other consideration paid by Buyer. The cost of such appraisal shall be borne equally by Buyer and Seller. To the extent such filings are required, Buyer and Seller shall file IRS Form 8594 and all federal, state, local and foreign Tax Returns in accordance with such agreed Allocation. Except to the extent required to comply with audit determinations by any authority with jurisdiction over a Party, Buyer and Seller shall report the transactions contemplated by this Agreement and the Ancillary Agreements for all required federal Income Tax and all other Tax purposes in a manner consistent with the Allocation determined pursuant to this Section 3.04. Buyer and Seller shall provide the other promptly with any other information required to complete Form 8594. Buyer and Seller shall provide the other with reasonable assistance in the event of an examination, audit or other proceeding regarding the agreed Allocation.

ARTICLE IV

Representations and Warranties of Seller

Seller represents and warrants to Buyer as follows:

SECTION 4.01. Organization; Qualification.

Seller is a corporation duly incorporated, validly existing and in good standing under the laws of the State of New York and has all requisite corporate power and authority to own, lease and operate the Auctioned Assets and to carry on the business of the Auctioned Assets as currently conducted.

SECTION 4.02. Authority Relative to This Agreement. Seller has all necessary corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and the Ancillary Agreements and the consummation by Seller of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Trustees of Seller or by a committee thereof to whom such authority has been duly delegated and no other corporate proceedings on the part of Seller are necessary to authorize this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby. This Agreement and the Ancillary Agreements have been duly and validly executed and delivered by Seller and, assuming that this Agreement and the Ancillary Agreements constitute valid and binding agreements of Buyer and each other party thereto (other than Seller), this Agreement and the Ancillary Agreements constitute valid and binding agreements of Seller, enforceable against Seller in accordance with their respective terms.

SECTION 4.03. Consents and Approvals; No Violation. (a) Subject to obtaining the Seller Required Regulatory Approvals and the Buyer Required Regulatory Approvals, neither the execution and delivery of this Agreement or the Ancillary Agreements by Seller nor the consummation of the transactions contemplated thereby, including the sale by Seller of the Auctioned Assets pursuant to this Agreement, will (i) conflict with or result in any breach of any provision of the Certificate of Incorporation or By-laws of Seller, (ii) except for Contracts requiring consent for assignment set forth in Schedule 4.03(a), result in a default (or give rise to any right of termination, cancelation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other

instrument or obligation to which Seller is a party or by which Seller, or any of the Auctioned Assets, may be bound or (iii) violate any Law applicable to Seller, or the Auctioned Assets, except in the case of clauses (ii) and (iii) for such failures to obtain a necessary consent, defaults (or rights) and violations which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(b) Except for (i) application by Seller to, and the approval of, the PSC, pursuant to Section 70 of the Public Service Law of the State of New York, of the transfer to Buyer of the Auctioned Assets, (ii) the filings by Seller and Buyer required by the HSR Act and the expiration or earlier termination of all waiting periods under the HSR Act, (iii) application by Seller to, and the approval of, FERC under (A) Section 203 of the Federal Power Act of 1935 (the "Federal Power Act") with respect to the transfer of Auctioned Assets constituting jurisdictional assets under the Federal Power Act and (B) Section 205 of the Federal Power Act with respect to the Continuing Site Agreement and the Power Purchase Agreement, (iv) application by Seller to, and the approval of, the NRC for the transfer of the NRC licenses for the Generating Plant under the Atomic Energy Act, (v) application by Seller to, and the approval of, the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 ("PUHCA"), of the transfer to Buyer of the Auctioned Assets, unless (A) FERC has determined that Buyer is an exempt wholesale generator or if Buyer's application for exempt wholesale generator status is deemed granted by operation of law pursuant to Section 32 of PUHCA or (B) Seller, in its sole discretion, elects to accept that Buyer is deemed to be such an exempt wholesale generator by virtue of Buyer applying in good faith to FERC for a determination that Buyer is such an exempt wholesale generator, (vi) application to, and determination by the PSC and such state Governmental Authorities as may be required under PUHCA that, for purposes of Section 32(c) of PUHCA, allowing the Auctioned Assets to be "an eligible facility" will benefit consumers, is in the public interest and does not violate state law, and (vii) other declarations, filings or registrations with, or notices to, or authorizations, consents or approvals of, any Governmental Authority which become applicable to Seller or the transactions contemplated hereby or by the Ancillary Agreements as a result of the specific regulatory status or jurisdiction of incorporation or organization of Buyer (or any of its Affiliates) or as a result of any other facts that specifically relate to the business or activities in which Buyer (or any of its Affiliates) is or proposes to be engaged (collectively, the "Seller Required Regulatory Approvals"), no declaration,

filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by Seller of the transactions contemplated hereby or by the Ancillary Agreements, other than (A) such declarations, filings, registrations, notices, authorizations, consents or approvals which, if not obtained or made, would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect, (B) any certificate of occupancy, consent or similar approval to authorize the change in occupancy of the Buyer Real Estate contemplated by this Agreement and required pursuant to the Code of the Village of Buchanan, including specifically Section 211.49 thereof and (C) any consent of the Commissioner of General Services of the State of New York required for the assignment from Seller to Buyer of the right to install and maintain a fish return pipeline in an area in the Hudson River approximately 30 feet wide and 330 feet long.

(c) To the knowledge of Seller, there is no reason that it should fail to obtain the Seller Required Regulatory Approvals.

SECTION 4.04. Personal Property. (a) Except for Permitted Exceptions, Seller has good and marketable title, free and clear of all Encumbrances, to all personal property included in the Auctioned Assets.

(b) Except as set forth in Schedule 4.04(b), to the knowledge of Seller, the Generating Plants conform in all material respects, to the extent required, to the (i) Technical Specifications included in the NRC Permits for Indian Point Unit 1 and Indian Point Unit 2 in accordance with the requirements of 10 C.F.R. Section 50.36 and (ii) the Updated Final Safety Analysis Report required to be maintained for Indian Point Unit 1 and Indian Point Unit 2 in accordance with the requirements of 10 C.F.R. Section 50.71(e).

SECTION 4.05. Real Estate. The Conveyance Plans indicate the location of the Buyer Real Estate. Copies of the Conveyance Plans and Certificates of Title Nos. 231-W-08707 and 231-W-10117 prepared by First American Title Insurance Company of New York, Inc., the most recent certificates of title in the possession of Seller with respect to the Buyer Real Estate or any portion thereof, have heretofore been delivered by Seller to Buyer or made available for inspection by Buyer, receipt of which is hereby acknowledged by Buyer.

SECTION 4.06. Leases. As of the date of this Agreement, Seller is neither a tenant nor a lessee under any real property leases which (a) are to be transferred and assigned to Buyer on the Closing Date and (b) (i) provide for annual payments of more than \$100,000 or (ii) are material to the Auctioned Assets, except, in each case, as set forth in Schedule 4.06.

SECTION 4.07. Contracts. (a) Except for (i) any Contract listed in Schedule 2.02(a)(iv), (ii) contracts which will expire prior to Closing or that are permitted to be entered into under this Agreement, (iii) contracts associated with emergency preparedness (including those relating to emergency sirens or radiation monitors), (iv) contracts with NYPA and (v) contracts listed in Schedule 4.07(a), Seller is not a party to any contract which is material to the business operations of the Auctioned Assets.

(b) Each Contract (i) constitutes a valid and binding obligation of Seller, and, to the knowledge of Seller, constitutes a valid and binding obligation of the other parties thereto, (ii) is in full force and effect and (iii) except for Contracts listed in Schedule 4.03(a), may be transferred to Buyer pursuant to this Agreement and will continue in full force and effect thereafter, in each case, without breaching the terms thereof or resulting in the forfeiture or impairment of any rights thereunder, except for such breaches, forfeitures or impairments which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(c) There is not, under any of the Contracts, any default or event which, with notice or lapse of time or both, would constitute a default by Seller, except for such events of default and other events as to which requisite waivers or consents have been obtained or which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(d) There are no suits or arbitration proceedings involving Seller pending or, to the knowledge of Seller, threatened relating to any Required Contract which would, individually or in the aggregate, be reasonably expected to have a material adverse effect on such Required Contract and which is not reasonably likely to be cured by Seller prior to Closing.

SECTION 4.08. Legal Proceedings. Except as set forth in Schedule 4.08, there are no claims, causes of action, proceedings or investigations pending or, to the

knowledge of Seller, threatened against or relating to Seller which would, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. With respect to the business or operations of the Auctioned Assets, Seller is not, as of the date of this Agreement, subject to any outstanding judgment, rule, order, writ, injunction or decree of any Governmental Authority which would, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. The representations and warranties of Seller set forth in this Section 4.08 shall not apply to, and do not cover, any environmental matters which, with respect to any representations and warranties of Seller, are exclusively governed by Section 4.10.

SECTION 4.09. Permits; Compliance with Law.

(a) Except as set forth in Schedule 4.09(a), Seller holds, and is in compliance with, all Permits necessary to conduct the business and operations of the Auctioned Assets as currently conducted, and, to the knowledge of Seller, Seller is otherwise in compliance with all Laws of any Governmental Authority applicable to the business and operations of the Auctioned Assets, except for such failures to hold or comply with such Permits, or such failures to be in compliance with such Laws, which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(b) Except as set forth in Schedule 4.09(b), Seller has not received any written notification that it is in violation of any of such Permits or Laws, except for notifications of violations which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. The representations and warranties of Seller set forth in this Section 4.09 shall not apply to, and do not cover, (i) any environmental matters which, with respect to any representations and warranties of Seller, are exclusively governed by Section 4.10, (ii) any ERISA matters which, with respect to any representations and warranties of Seller, are exclusively governed by Section 4.12, (iii) any tax matters which, with respect to any representations and warranties of Seller, are exclusively governed by Section 4.13 or (iv) any nuclear matters which, with respect to any representations and warranties of Seller, are exclusively governed by Section 4.17.

SECTION 4.10. Environmental Matters. (a) Except as set forth in Schedule 4.10, Seller holds, and is in compliance with, all Environmental Permits required under applicable Environmental Laws to conduct the business and operations of the Auctioned Assets as currently conducted,

and, to the knowledge of Seller, Seller is in compliance with Environmental Laws applicable to the business and operations of the Auctioned Assets, except for such failures to hold or comply with such Environmental Permits, or such failures to be in compliance with such Environmental Laws, which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(b) Except as set forth in Schedule 4.10, Seller has not received written notice from a Governmental Authority (i) that it is in violation of any Environmental Law with respect to the Auctioned Assets or (ii) that it is a potentially responsible party under the Federal Comprehensive Environmental Response, Compensation, and Liability Act or any similar state law with respect to any real property included in the Buyer Real Estate or in any lease forming part of the Auctioned Assets, except for such matters under such Environmental Laws as would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(c) Except as set forth in Schedule 4.10, with respect to the business and operations of the Auctioned Assets, Seller has not entered into or agreed to any consent decree or order and is not subject to any outstanding judgment, decree or judicial order relating to compliance with any Environmental Law or to the remediation of Hazardous Substances under any Environmental Law, except for such consent decrees and orders, judgments, decrees or judicial orders that would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(d) Except as set forth in Schedule 4.10, there are no claims, causes of action, proceedings or investigations pending, or to the knowledge of Seller, threatened against or relating to Seller, under or relating to any Environmental Law, which would, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. The representations and warranties made in this Section 4.10 are Seller's exclusive representations and warranties relating to environmental matters.

SECTION 4.11. Labor Matters. Seller has previously made available to Buyer copies of all collective bargaining agreements to which Seller is a party or is subject and which relate to the business or operations of the Auctioned Assets. Except as set forth in Schedule 4.11, with respect to the business and operations of the Auctioned Assets, (a) there is no labor strike, slowdown or stoppage presently affecting the Auctioned Assets or, to the

knowledge of Seller, threatened that would affect the Auctioned Assets, (b) Seller has not received notice that any representation petition respecting the employees of Seller has been filed with the National Labor Relations Board, (c) Seller has not experienced any primary work stoppage since at least December 31, 1997, (d) Seller has not received written notice of any unfair labor practice complaint against Seller pending before the National Labor Relations Board and (e) no arbitration proceeding arising out of or under collective bargaining agreements is pending against Seller except, in the case of each of the foregoing clauses (a) through (e), for such matters as would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

SECTION 4.12. ERISA; Benefit Plans.

Schedule 4.12 sets forth a list, as of the date of this Agreement, of all material deferred compensation, profit-sharing, retirement and pension plans and all material bonus and other material employee benefit or fringe benefit plans maintained, or with respect to which contributions have been made, by Seller with respect to current employees employed in connection with the operations of the Generating Plants and the Gas Turbines (collectively, "Benefit Plans"). Copies of all such Benefit Plans have been made available to Buyer. Seller and each trade or business (whether or not incorporated) which are treated as a single employer with Seller under Section 414(b), (c), (m) or (o) of the Code (an "ERISA Affiliate") have fulfilled their respective obligations under the minimum funding requirements of Section 302 of ERISA, and Section 412 of the Code, with respect to each Benefit Plan which is an "employee pension benefit plan" as defined in Section 3(2) of ERISA. Each Benefit Plan is in compliance in all material respects with the presently applicable provisions of ERISA and the Code, except for such failures to fulfill such obligations or comply with such provisions which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. Neither Seller nor any ERISA Affiliate has incurred any liability under Section 4062(b) of ERISA, or any withdrawal liability under Section 4201 of ERISA, to the Pension Benefit Guaranty Corporation (the "PBGC") in connection with any Benefit Plan which is subject to Title IV of ERISA which liability remains outstanding. Neither Seller nor any ERISA Affiliate has engaged in any transaction within the meaning of Section 4069(b) or Section 4212(c) of ERISA. No Benefit Plan and no "employee pension benefit plan" (as defined in Section 3(2) of ERISA) maintained by Seller or any ERISA Affiliate or to which Seller or any ERISA Affiliate has contributed is a multiemployer plan. Seller has the right,

in accordance with and subject to the terms thereof, to terminate and modify each Benefit Plan.

SECTION 4.13. Taxes. With respect to the Auctioned Assets and businesses of Seller related to the Auctioned Assets, (a) all Tax Returns required to be filed have been filed and all such returns were correct and complete in all respects and (b) all Taxes shown to be due on such Tax Returns, and all Taxes otherwise owed for which a Tax Return is not required to be filed, have been paid in full, except to the extent that any failure to file or any failure of filed returns to be correct and complete or any failure to pay any Taxes would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. No written notice of deficiency or assessment has been received from any taxing authority with respect to liabilities for Taxes of Seller in respect of the Auctioned Assets which has not been fully paid or finally settled or which is not being contested in good faith through appropriate proceedings, except for any such notices regarding Taxes which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. Except as set forth in Schedule 4.13, there are no outstanding agreements or waivers extending the applicable statutory periods of limitation for Taxes associated with the Auctioned Assets for any period, except for any such agreements or waivers which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. The representations and warranties of Seller set forth in this Section 4.13 shall not apply to, and do not cover, any Decommissioning matters which, with respect to the representations and warranties of the Seller, are exclusively governed by Sections 4.18 and 4.19.

SECTION 4.14. Undisclosed Liabilities. As of the date of this Agreement, there are no liabilities or obligations of any nature or kind (absolute, accrued, contingent or otherwise) with respect to the Auctioned Assets that, if they had existed as of December 31, 1999, would have been required to be set forth on Seller's December 31, 1999 balance sheet or in the notes thereto prepared in accordance with GAAP, as applied by Seller in connection with such balance sheet (the "Balance Sheet"), except for any such liabilities or obligations which (a) are disclosed, reflected or reserved against in the Balance Sheet, (b) are disclosed in or contemplated or permitted by this Agreement or the Ancillary Agreements (including the Assumed Obligations), (c) have been incurred in the ordinary course of business, (d) are Retained Liabilities, or (e) are set forth in Schedule 4.14.

SECTION 4.15. Brokers. No broker, finder or other person is entitled to any brokerage fees, commissions or finder's fees in connection with the transaction contemplated hereby by reason of any action taken by Seller, except Morgan Stanley & Co. Incorporated, which is acting for and at the expense of Seller.

SECTION 4.16. Insurance. Set forth in Schedule 4.16(a) is a description of the insurance program of Seller related to the ownership or operation of the Auctioned Assets. Except as set forth in Schedule 4.16(b), Seller carries policies of insurance covering fire, workers' compensation, property all-risk, comprehensive bodily injury, property damage liability, automobile liability, product liability, completed operations, explosion, collapse, contractual liability, personal injury liability and other forms of insurance relating to the Auctioned Assets, or otherwise self-insures in accordance with all statutory and regulatory criteria against any such liabilities, which insurance, in all material respects, is in such amounts, has such deductibles and retentions and is underwritten by such companies as would be obtained in accordance with Prudent Utility Practices. Such insurance policies and arrangements are in full force and effect, all premiums with respect thereto are currently paid, and Seller is in compliance in all material respects with the terms thereof.

SECTION 4.17. Nuclear Matters. (a) Except as set forth in Schedule 4.17, Seller holds, and is in compliance with, all NRC Permits required under the Atomic Energy Act and the Energy Reorganization Act for Seller to conduct the business and operations of the Auctioned Assets as currently conducted, and, to the knowledge of Seller, Seller is in compliance with the Atomic Energy Act and the Energy Reorganization Act and all orders or decisions of the NRC applicable to the business and operations of the Auctioned Assets, except for such failures to hold or comply with such NRC Permits, or such failures to be in compliance with the Atomic Energy Act or the Energy Reorganization Act, or any such orders or decisions of the NRC, which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(b) Except as set forth in Schedule 4.17, Seller has not received from any Governmental Authority any written notice that it is currently in violation of any order, rule, regulation or decision of the NRC applicable to the Auctioned Assets.

SECTION 4.18: Qualified Decommissioning Fund.

(a) Seller's Qualified Decommissioning Fund is a trust validly existing and in good standing under the laws of the State of New York. Seller's Qualified Decommissioning Fund satisfies the requirements necessary for such Fund to be treated as a "Nuclear Decommissioning Reserve Fund" within the meaning of Section 468A(a) of the Code and as a "nuclear decommissioning fund" and a "qualified nuclear decommissioning fund" within the meaning of Treas. Reg. Section 1.468A-1(b)(3). Seller's Qualified Decommissioning Fund is in compliance with all applicable rules and regulations of the NRC, FERC, PSC and IRS, except for any such noncompliance which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. Seller's Qualified Decommissioning Fund has not engaged in any acts of "self-dealing" as defined in Treas. Reg. Section 1.468A-5(b)(2). No "excess contribution", as defined in Treas. Reg. Section 1.468A-5(c)(2)(ii), has been made to the Qualified Decommissioning Fund which has not been withdrawn within the period provided under Treas. Reg. Section 1.468A-5(c)(2)(i). Since 1988, Seller has made timely and valid elections to make annual contributions to the Qualified Decommissioning Fund.

(b) Seller has delivered to Buyer a copy of the schedule of ruling amounts most recently issued by the IRS for the Qualified Decommissioning Fund, a copy of the request that was filed to obtain such schedule of ruling amounts and a copy of any pending request for revised ruling amounts, in each case, together with all exhibits, amendments and supplements thereto. There are no interim rate orders that may be retroactively adjusted, or retroactive adjustments to interim rate orders, that may materially affect amounts that Buyer may contribute to the Qualified Decommissioning Fund or that may require material distributions to be made from the Qualified Decommissioning Fund.

(c) The December 31, 1999 balance sheet for the Qualified Decommissioning Fund, previously made available to Buyer, has been prepared in accordance with GAAP applied on a consistent basis (except as may be described in the notes thereto) and fairly presents the financial position of the Qualified Decommissioning Fund as of December 31, 1999.

(d) Seller's Qualified Decommissioning Fund has filed all Tax Returns required to be filed and all material Taxes shown to be due on such Tax Returns have been paid in full. No written notice of any material deficiency or assessment has been received from any taxing authority with respect to liabilities for Taxes of the Qualified Decommis-

sioning Fund which has not been fully paid or finally settled or which is not being contested in good faith through appropriate proceedings.

(e) To the extent Seller has, prior to the Closing Date, pooled the assets of the Qualified Decommissioning Fund with those of any other assets for investment purposes, such pooling arrangement is a partnership for U.S. federal income Tax purposes.

SECTION 4.19. Nonqualified Decommissioning Fund.

(a) Seller's Nonqualified Decommissioning Fund is a trust validly existing and in good standing under the laws of the State of New York. Seller's Nonqualified Decommissioning Fund is in compliance with all applicable rules and regulations of the NRC and FERC, except for any such noncompliance which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

(b) The December 31, 1999 balance sheet for the Nonqualified Decommissioning Fund, previously made available to Buyer, has been prepared in accordance with GAAP applied on a consistent basis (except as may be described in the notes thereto) and fairly presents the financial position of the Nonqualified Decommissioning Fund as of December 31, 1999.

SECTION 4.20. Sufficiency of Auctioned Assets.

Except (i) as set forth in Section 2.05, (ii) to the extent that any Permit, Environmental Permit, NRC Permit or Contract may not be transferable or assignable to Buyer, (iii) contracts or other agreements associated with emergency preparedness (including those relating to emergency sirens or radiation monitors), (iv) contracts or other agreements with NYPA and (v) as expressly set forth in Schedules 4.09 or 4.10, the Auctioned Assets constitute all of the assets necessary to operate the Generating Plants and the Gas Turbines in the manner currently operated by Seller, subject to Permitted Exceptions.

SECTION 4.21. Condemnation. Seller has not received any written notice from any Governmental Authority of any pending or threatened proceeding to condemn or take by power of eminent domain or otherwise all or any part of the Buyer Real Estate.

SECTION 4.22. No Change in Accounting Methods or Practices. Since December 31, 1999, Seller has not materially changed its accounting methods or practices with respect to the Auctioned Assets.

EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN THIS AGREEMENT, THE ANCILLARY AGREEMENTS OR ANY CERTIFICATES, EXHIBITS OR SCHEDULES HERETO OR THERETO, THE AUCTIONED ASSETS ARE BEING SOLD, ASSIGNED, CONVEYED, TRANSFERRED AND DELIVERED "AS IS, WHERE IS", AND SELLER IS NOT MAKING ANY OTHER REPRESENTATIONS OR WARRANTIES WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING SUCH AUCTIONED ASSETS OR WITH RESPECT TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, INCLUDING, IN PARTICULAR WITH RESPECT TO THE AUCTIONED ASSETS, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED BY SELLER AND WAIVED BY BUYER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE INFORMATION SET FORTH IN, OR CONTEMPLATED BY, THE INFORMATION MEMORANDUM.

ARTICLE V

Representations and Warranties of Buyer

Buyer represents and warrants to Seller as follows:

SECTION 5.01. Organization. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite limited liability company power and authority to own, lease and operate its properties and to carry on its business as is now being conducted. At or prior to Closing, Buyer will be duly qualified and licensed to do business as a foreign limited liability company and will be in good standing in the State of New York.

SECTION 5.02. Authority Relative to This Agreement. Buyer has all necessary limited liability company power and authority to execute and deliver this Agreement and the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and such Ancillary Agreements and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Directors of Buyer or by a committee thereof to whom such authority has been duly delegated and no other proceedings on the part of Buyer are necessary to authorize this Agreement or such Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby. This Agreement and such Ancillary Agreements have been duly and

validly executed and delivered by Buyer and, assuming that this Agreement and the Ancillary Agreements constitute valid and binding agreements of Seller and each other party thereto (other than Buyer), this Agreement and such Ancillary Agreements constitute valid and binding agreements of Buyer, enforceable against Buyer in accordance with their respective terms.

SECTION 5.03. Consents and Approvals; No Violation. (a) Subject to obtaining the Buyer Required Regulatory Approvals and the Seller Required Regulatory Approvals, neither the execution and delivery of this Agreement or the Ancillary Agreements to which it is party by Buyer nor the purchase by Buyer of the Auctioned Assets pursuant to this Agreement will (i) conflict with or result in any breach of any provision of the Certificate of Formation or Operating Agreement of Buyer, (ii) result in a default (or give rise to any right of termination, cancelation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Buyer or any of its subsidiaries is a party or by which any of their respective assets may be bound, or (iii) violate any Law applicable to Buyer, or any of its assets, except in the case of clauses (ii) and (iii) for such failures to obtain a necessary consent, defaults (or rights) and violations which would not, individually or in the aggregate, be reasonably expected to have a material adverse effect on the ability of Buyer to consummate the transactions contemplated by, and discharge its obligations under, this Agreement and the Ancillary Agreements (a "Buyer Material Adverse Effect").

(b) Except for (i) approval of the PSC, pursuant to Section 70 of the Public Service Law of the State of New York, of the transfer to Buyer of the Auctioned Assets, (ii) a ruling or approval of the PSC granting Buyer lightened regulatory treatment that is comparable to regulatory treatment granted to other providers of wholesale electric services in New York State and that would not prevent Buyer from competing on a comparable basis with such other providers, (iii) the filings by Buyer and Seller required by the HSR Act and the expiration or earlier termination of all waiting periods under the HSR Act, (iv) application by Buyer to, and the approval of, FERC under (A) Section 203 of the Federal Power Act with respect to the transfer of Auctioned Assets constituting jurisdictional assets under the Federal Power Act and (B) Section 205 of the Federal Power Act with respect to (1) the Continuing Site Agreement and the Power Purchase Agreement, and (2) authorization to sell energy from the

Generating Plants and Gas Turbines at market-based rates, (v) application by Buyer to, and the approval of, the NRC for the transfer of the NRC licenses for the Generating Plants under the Atomic Energy Act, (vi) application to, and determination by the PSC and such state Governmental Authorities as may be required under PUHCA that, for purposes of Section 32(c) of PUHCA, allowing the Auctioned Assets to be "an eligible facility" will benefit consumers, is in the public interest and does not violate state law, (vii) qualification of Buyer, with respect to the Auctioned Assets, as an exempt wholesale generator under the Energy Policy Act of 1992, (viii) an application for a certificate of occupancy, consent or similar approval to authorize the change in occupancy of the Buyer Real Estate contemplated by this Agreement required pursuant to the Code of the Village of Buchanan, including specifically Section 211.49 thereof and (ix) an application for the consent of the Commissioner of General Services of the State of New York required for the assignment from Seller to Buyer of the right to install and maintain a fish return pipeline in an area in the Hudson River approximately 30 feet wide and 330 feet long (collectively, the "Buyer Required Regulatory Approvals"), no declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by Buyer of the transactions contemplated hereby or by the Ancillary Agreements, other than such declarations, filings, registrations, notices, authorizations, consents or approvals which, if not obtained or made, would not, individually or in the aggregate, be reasonably expected to have a Buyer Material Adverse Effect.

(c) To the knowledge of Buyer, there is no reason that it should fail to obtain the Buyer Required Regulatory Approvals.

SECTION 5.04. Availability of Funds. Buyer has sufficient funds available to it to provide sufficient funds prior to Closing to pay the Purchase Price (as adjusted).

SECTION 5.05. Brokers. No broker, finder or other person is entitled to any brokerage fees, commissions or finder's fees in connection with the transaction contemplated hereby by reason of any action taken by Buyer.

ARTICLE VI

Covenants of the Parties

SECTION 6.01. Conduct of Business Relating to the Auctioned Assets. (a) Except with the prior written consent of Buyer (such consent not to be unreasonably withheld or delayed) or as may be required to effect the purchase and sale of the Auctioned Assets and related transactions contemplated by this Agreement or the Ancillary Agreements or as necessary to comply with applicable Law, during the period from the date of this Agreement to the Closing Date, Seller will operate and maintain the Auctioned Assets in the usual, regular and ordinary course consistent with Prudent Utility Practices.

(b) Without limiting the generality of the foregoing, except as may be required by this Agreement or the Ancillary Agreements or as necessary to comply with applicable Law, during the period from the date of this Agreement to Closing, without the prior written consent of Buyer (such consent not to be unreasonably withheld or delayed), Seller will not:

(i) except for Permitted Exceptions, grant any Encumbrance on the Auctioned Assets;

(ii) make any material change in the levels of Inventory customarily maintained by Seller with respect to the Auctioned Assets, other than consistent with Prudent Utility Practices;

(iii) sell, lease (as lessor), transfer or otherwise dispose of, any of the Auctioned Assets, other than assets used, consumed or replaced in the ordinary course of business consistent with Prudent Utility Practices;

(iv) terminate, materially extend or otherwise materially amend any of the Contracts or waive any default by, or release, settle or compromise any material claim against, any other party thereto; provided, however, that Seller, at its option, may (A) terminate any Contract that is not a Required Contract and (B) amend the Indian Point Facilities Agreement between Seller and NYPA dated January 1, 1993 together with attached Memoranda of Understanding Nos. 1, 3-17, 20, 28, 30, 32 and 33 to effect the deletion therefrom of any obligations of Seller relating to the Substation, the Transmission System or the supply of power;

(v) terminate, extend or amend any of the Transferable Permits, other than (A) Transferable Permits not material to the operations of the Auctioned

Assets as currently conducted, (B) routine renewals and (C) transfers contemplated by Section 6.03(b);

(vi) establish, adopt, enter into or amend the Collective Bargaining Agreement, Benefits Plans or other employment plans, arrangements or practices, or grant to any Affected Employee any material increase in compensation, except (A) to the extent required by the terms of the Collective Bargaining Agreement, any employment agreement in effect as of the date of this Agreement, or applicable Law, (B) in the ordinary course of business consistent with past practice or (C) as set forth in Schedule 6.01(b) (vi);

(vii) enter into, amend or otherwise modify any real or personal property Tax agreement, treaty or settlement relating to the Auctioned Assets; or

(viii) materially change its accounting methods or practices with respect to the Auctioned Assets.

(c) Except for contracts or agreements related to matters set forth in Schedule 6.01(c) (i) not to exceed the respective dollar amounts specified for each such contract or agreement set forth in such schedule, Buyer shall not be required to assume the liabilities and obligations under any contracts or agreements entered into, without the prior written consent of Buyer, by Seller during the period from the date of this Agreement to Closing, if such contracts or agreements (i) are for the purchase, sale or storage of Nuclear Fuel, (ii) at Closing, have individual future liability outstanding in excess of \$500,000 or aggregate future liability outstanding in excess of \$5,000,000 or (iii) at Closing, have individual future liability outstanding of less than or equal to \$500,000 or aggregate future liability outstanding of less than or equal to \$5,000,000 and with respect to which Seller has not used its reasonable best efforts to provide that such contract or agreement may be terminated by Buyer at its option at any time after Closing without penalty or cost (other than de minimis administrative costs); provided, that, notwithstanding anything in this Section 6.01(c) to the contrary, Buyer shall assume the liabilities and obligations of Seller under any contract or agreement entered into by Seller in accordance with Prudent Utility Practices in connection with the capital projects listed in Schedule 6.01(c) (ii) and the work specified in Schedule 6.01(c) (iii) not to exceed the respective dollar amounts specified for such capital projects and work set forth in such schedules.

(d) Notwithstanding anything in this Section 6.01 to the contrary, Seller may take any action, incur any expense or enter into any obligation with respect to the Auctioned Assets to the extent that (i) all obligations and liabilities arising with respect thereto do not constitute Assumed Obligations or (ii) Seller otherwise provides that such obligations and liabilities shall not be assumed or retained by Buyer.

(e) Promptly after the date of this Agreement, Seller shall deliver to Buyer a copy of the contract dated April 11, 1996 between Seller and Westinghouse Electric Corporation and relating to nuclear fuel fabrication (the "Westinghouse Contract"). Within 30 days of such delivery, Buyer may elect, by written notice to Seller, to assume the Westinghouse Contract at Closing and upon such election the Westinghouse Contract shall be deemed to be a "Required Contract" for purposes of this Agreement; provided, however, that Seller shall retain all rights to credits or discounts to which it is entitled under any settlement between Westinghouse Electric Corporation and Seller.

SECTION 6.02. Access to Information. (a) As part of the transition process, Buyer and Seller shall, or shall cause any committees established in connection therewith to, negotiate in good faith to establish rules for access to the information addressed in this Section 6.02. Pursuant to such rules for access, between the date of this Agreement and the Closing Date, Seller will, subject to the Confidentiality Agreement, during ordinary business hours and upon reasonable notice and subject to compliance with applicable Law: (i) give Buyer or its Affiliates and their representatives reasonable access to (A) all books, records, plants, offices and other facilities and properties constituting the Auctioned Assets, including for the purposes of observing the operation by Seller of the Auctioned Assets and (B) the Generating Plants or Gas Turbines and to applicable employees of Seller, (ii) permit Buyer or its Affiliates to make such reasonable inspections thereof as Buyer or its Affiliates may reasonably request, (iii) furnish Buyer or its Affiliates with such financial and operating data and other information with respect to the Auctioned Assets as Buyer or its Affiliates may from time to time reasonably request, and (iv) furnish Buyer or its Affiliates, upon request, a copy of each material report, schedule or other document with respect to the Auctioned Assets filed by Seller with, or received by Seller from, the PSC, NRC, IRS or FERC; provided, however, that (A) any such activities shall be conducted in such a manner as not to interfere with the operation of the Auctioned Assets, (B) Seller shall not be required to take any action which would

constitute a waiver of the attorney-client privilege and (C) Seller need not supply Buyer with (1) any information or access which Seller is under a legal obligation not to supply (provided that upon the prior written request of Buyer, Seller will use its reasonable best efforts to obtain the necessary consents) or (2) any documents attached as Item 4(c) studies, surveys, analyses or reports to Seller's application pursuant to the HSR Act. Notwithstanding anything in this Section 6.02 to the contrary, (I) Seller will not be required to provide such information or access to any employee records other than Continued Employee Records, (II) Buyer shall not have the right to perform or conduct any environmental or radiological sampling or testing at, in, on, around or underneath the Auctioned Assets and (III) Seller shall not be required to provide such access or information with respect to any Retained Asset or Retained Liabilities (unless reasonably necessary in connection with Buyer's observations or investigations relating to the Auctioned Assets). Seller shall promptly provide Buyer with copies of all binding and non-binding notices delivered by Seller relating to the ordering of, or scheduling of future delivery of, Nuclear Fuel under any Contract.

(b) Unless otherwise agreed to in writing by Buyer, Seller shall, for a period commencing on the Closing Date and terminating three years after the Closing Date, keep confidential and shall cause its representatives to keep confidential all Confidential Information (as defined in the Confidentiality Agreement) on the terms set forth in the Confidentiality Agreement. Except as contemplated by the following sentence, Seller shall not release any person from any confidentiality agreement now existing with respect solely to the Auctioned Assets or waive or amend any provision thereof. After the Closing Date, upon reasonable request of Buyer, Seller shall, to the maximum extent permitted by Law and the applicable Bidder Confidentiality Agreement (as defined below), appoint Buyer to be Seller's representative and agent in respect of confidential information relating to the Auctioned Assets under the confidentiality agreements ("Bidder Confidentiality Agreements") between Seller and prospective purchasers of the Auctioned Assets.

(c) After Closing, Buyer shall retain all Operating Records, Decommissioning Accounting Records and Continued Employee Records (whether in electronic form or otherwise) delivered by Seller on the Closing Date relating to the Auctioned Assets prior to Closing. Buyer agrees that, after Closing Date, Seller shall have the right, upon reasonable request to Buyer, to receive from Buyer copies of

any Operating Records, Decommissioning Accounting Records, Continued Employee Records or other information in Buyer's possession relating to the Auctioned Assets, the Decommissioning Funds or the Continued Employees, as the case may be, for periods prior to Closing and required by Seller in order to comply with applicable Law or to the extent that such records or information may reasonably be required by Seller in connection with any claim, cause of action, proceeding or investigation in which Seller may be involved, provided that there is no conflict between Buyer and Seller in such claim, cause of action, proceeding or investigation. Seller shall reimburse Buyer for its reasonable costs and expenses incurred in connection with the foregoing sentence.

SECTION 6.03. Consents and Approvals; Transferable Permits. (a) Seller and Buyer shall cooperate with each other and (i) prepare and file (or otherwise effect) as soon as practicable following the date of this Agreement, all applications, notices, petitions and filings and execute all agreements and documents with respect to and (ii) use their reasonable best efforts to (A) obtain (x) the Seller Required Regulatory Approvals and the Buyer Required Regulatory Approvals, (y) any other consents, approvals or authorizations of any other Governmental Authorities or third parties that are necessary to consummate the transactions contemplated by this Agreement or the Ancillary Agreements and (z) the transfer, issuance or reissuance to Buyer of all Transferable Permits and (B) as appropriate, facilitate the substitution of Buyer for Seller in connection with pending Transferable Permits. Without limiting the generality of the foregoing, (1) each Party agrees to, upon the other Party's request, support such other Party's applications for regulatory approvals of the purchase and sale of the Auctioned Assets contemplated by this Agreement and (2) Buyer and Seller agree to defend any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the Ancillary Agreements, or the consummation of the transactions contemplated hereby or thereby, including seeking to have any stay or temporary restraining order entered by any Governmental Authority vacated or reversed.

(b) Following the date of this Agreement, Seller shall commence the process of transferring to Buyer the Transferable Permits, including completing and filing applications and related documents with the appropriate Governmental Authorities. The Parties shall have the right to review and comment on in advance all filings relating to the transactions contemplated by this Agreement or the Ancillary Agreements proposed to be made by the other Party

and such other Party shall have the right to appear in (i) any proceeding relating to such filings with Governmental Authorities and (ii) any in-person meeting relating to such filings or any announced or scheduled meeting attended by the Chief Nuclear Officer of Seller, in each case, with the NRC or NYSDEC. The Parties shall in good faith consider such comments before making any such filings to the extent permitted by Law. Notwithstanding the foregoing, neither Party shall be obligated to submit to the other Party any documents attached as Item 4(c) studies, surveys, analyses and reports to its application pursuant to the HSR Act.

(c) The filing fees in connection with the filings by Seller and Buyer under the HSR Act that are part of the Seller Required Regulatory Approvals and Buyer Required Regulatory Approvals shall be borne entirely by Buyer.

(d) Seller shall bear the costs and expenses in connection with the satisfaction of the Closing Condition set forth in Section 7.02(d) with respect to Required Software and Patents; provided, that Buyer shall bear all costs and expenses associated with any maintenance or similar agreements associated with the Required Software and the Patents relating to periods after Closing; provided, that such costs and expenses are comparable to the costs and expenses paid by Seller prior to Closing or are in accordance with applicable industry pricing at the relevant time.

SECTION 6.04. Further Assurances. (a) Subject to the terms and conditions of this Agreement, each of the Parties will use its reasonable best efforts to take, or cause to be taken, as soon as possible, all action, and to do, or cause to be done, as soon as possible, all things necessary, proper or advisable under applicable Laws to consummate the sale of the Auctioned Assets pursuant to this Agreement as soon as possible, including using its reasonable best efforts to ensure satisfaction of the conditions precedent to each Party's obligations hereunder. Neither of the Parties will, without prior written consent of the other Party, take or fail to take, or permit their respective Affiliates to take or fail to take, any action, which would reasonably be expected to prevent or materially impede, interfere with or delay the consummation, as soon as possible, of the transactions contemplated by this Agreement or the Ancillary Agreements.

(b) From time to time after the date of this Agreement, without further consideration and at its own

expense, (i) Seller will execute and deliver such instruments of assignment or conveyance as Buyer may reasonably request to more effectively vest in Buyer Seller's title to the Auctioned Assets (subject to Permitted Exceptions and the other terms of this Agreement) and (ii) Buyer will execute and deliver such instruments of assumption as Seller may reasonably request in order to more effectively consummate the sale of the Auctioned Assets and the assumption of the Assumed Obligations pursuant to this Agreement.

(c) Seller and Buyer shall cooperate in good faith to establish a transition committee to consider operational and business issues related to the purchase and sale of the Auctioned Assets.

(d) Prior to the Closing Date, Seller shall cooperate in good faith with Buyer to enable Buyer to obtain insurance, including insurance required under the Price-Anderson Act, in respect of the Auctioned Assets comparable to that maintained by Seller as of the date of this Agreement.

(e) Not later than five days prior to Closing, Seller shall deliver to Buyer a schedule setting forth in reasonable detail the liabilities and obligations which can be reasonably determined at such time that Buyer will assume at Closing pursuant to Section 2.03(a) (ii).

(f) Buyer may, at its own cost and expense, seek authorizations for the use of software, other than the Required Software, and patented items and processes, other than the Patents, and Seller shall cooperate in good faith in connection with such efforts.

(g) (i) Not later than 60 days prior to Closing, Seller shall deliver to Buyer a schedule setting forth the Contracts that, in accordance with Section 2.04, will not be assigned to Buyer at Closing and (ii) not later than 30 days prior to closing, Buyer shall deliver to Seller a schedule setting forth the software, other than the Required Software, and the patented items and processes, other than the Patents, with respect to which Buyer has received or will receive prior to Closing authorizations for the use thereof.

(h) To the extent that Westinghouse Electric Corporation is the manufacturer or vendor of, or provider of service with respect to, machinery, equipment, facilities, furniture or other personal property that constitute Auctioned Assets, Buyer agrees to be bound by and comply with any contractually-imposed waiver and/or limitation of

liability that has been contractually imposed on Seller by Westinghouse Electric Corporation to the same extent as Seller.

SECTION 6.05. Public Statements. The Parties shall consult with each other prior to issuing any public announcement, statement or other disclosure with respect to this Agreement, the Ancillary Agreements or the transactions contemplated hereby or thereby, including any statement appearing in any filing contemplated hereby or thereby, and shall not issue any such public announcement, statement or other disclosure prior to such consultation, except as may be required by Law; provided that no Party shall issue its initial public announcement, statement or other disclosure with respect to the transactions contemplated hereby without the prior consent of such other Party (which consent shall not be unreasonably withheld or delayed).

SECTION 6.06. Tax Matters. (a) All transfer and sales Taxes (including any petroleum business Taxes and similar excise Taxes on sales of petroleum based products) incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by Buyer. Buyer shall prepare and file in a timely manner any Tax Returns or other documentation relating to such Taxes; provided, however, that, to the extent required by applicable Law, Seller will join in the execution of any such Tax Returns or other documentation relating to any such Taxes. Buyer shall provide to Seller copies of each Tax Return described in the proviso in the preceding sentence at least 30 days prior to the date such Tax Return is required to be filed.

(b) Each Party shall provide the other Party with such assistance as may reasonably be requested by the other Party in connection with the preparation of any Tax Return, any audit or other examination by any taxing authority, or any judicial or administrative proceedings relating to liability for Taxes, and each Party shall retain and provide the other Party with any records or information which may be relevant to such Tax Return, audit, examination or proceedings. Any information obtained pursuant to this Section 6.06(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other instrument relating to Taxes shall be kept confidential by the parties hereto.

(c) If either Buyer or Seller receives a refund with respect to Taxes to be prorated in accordance with Sections 2.03(a) (x) and 2.03(b) (ix) for a taxable period including the Closing Date, Buyer shall pay to Seller the portion of any such refund attributable to the portion of

such taxable period prior to the Closing Date, and Seller shall pay to Buyer the portion of any such refund attributable to the portion of such taxable period on and after the Closing Date.

(d) With respect to Taxes to be prorated in accordance with Sections 2.03(a)(x) and 2.03(b)(ix), Buyer shall prepare and timely file all Tax Returns, if any, required to be filed after the Closing Date with respect to the Auctioned Assets and shall duly and timely pay all such Taxes shown to be due on such Tax Returns. Buyer's preparation of such Tax Returns for the taxable period in which Closing occurs shall be subject to Seller's approval, which approval shall not be unreasonably withheld or delayed. Buyer shall make each such Tax Return available for Seller's review and approval no later than 30 days prior to the date such Tax Return is required to be filed, it being understood that Seller's failure to approve any such Tax Return shall not limit Buyer's obligation to timely file such Tax Return and duly and timely pay all Taxes shown to be due thereon. Seller shall, to the extent required by applicable Law, join in the execution of any such Tax Returns.

(e) Seller and Buyer shall cooperate and provide each other with such assistance as may be reasonably requested by the other Party in connection with obtaining the rulings set forth in Section 6.07(c). Seller and Buyer shall jointly control all proceedings in connection with obtaining the rulings set forth in Section 6.07(c)(i) (the "joint rulings"); provided, however, that neither Party shall take any action except in connection with any ruling set forth in Section 6.07(c)(i) directed solely at such Party without the consent of the other Party, which consent shall not be unreasonably withheld; and provided further that Buyer and Seller shall share equally all expenses (other than their own legal fees) incurred in seeking and obtaining the joint rulings.

SECTION 6.07. Decommissioning Funds. (a) At Closing, Seller shall cause all of the assets of the Qualified Decommissioning Fund to be transferred to Buyer (or, if directed in writing to do so by Buyer, to the trustee of any trust specified in such written direction). Such assets shall consist of equity securities, fixed income securities and de minimis amounts of cash. To the extent that the Fair Market Value of the assets of the Qualified Decommissioning Fund is greater than \$430,000,000, the Purchase Price shall be adjusted pursuant to Section 3.02(c)(iii).

(b) To the extent that the Fair Market Value of the assets of the Qualified Decommissioning Fund is less than \$430,000,000, Seller shall transfer to Buyer assets of the Nonqualified Decommissioning Fund such that the aggregate Fair Market Value of the assets of the Decommissioning Funds transferred to Buyer is equal to \$430,000,000. If such a transfer is required, such assets shall consist of equity securities, fixed income securities and de minimis amounts of cash.

(c) As soon as practicable, after the date of this Agreement, (i) the Parties shall jointly request and use their reasonable best efforts to obtain prior to the Closing Date rulings issued by the IRS to the effect that (A) the Parties and the Qualified Decommissioning Fund shall not recognize any gain or otherwise take into account any income for U.S. federal income Tax purposes by reason of the transfer of the assets of the Qualified Decommissioning Fund to Buyer and that the trust established by Buyer into which the assets of the Qualified Decommissioning Fund are to be transferred at Closing will be treated as a "Nuclear Decommissioning Reserve Fund" within the meaning of Section 468A of the Code and as a "nuclear decommissioning fund" and a "qualified nuclear decommissioning fund" within the meaning of Treas. Reg. Section 1.468A-1(b)(3), (B) Buyer will not recognize any gain or otherwise take into account any income for U.S. federal income Tax purposes by reason of any transfer of the assets of the Nonqualified Decommissioning Fund to Buyer, except to the extent that the amount of cash and other Class I assets (as such term is defined in Treas. Reg. Section 1.338-6T) received by Buyer exceeds the amount of consideration (as determined under Section 1060 of the Code) provided by Buyer for the Auctioned Assets and (C) Seller will be allowed current ordinary deductions for U.S. federal income Tax purposes for any amounts treated as realized by Seller, or otherwise recognized as income to Seller, as a result of Buyer's assumption of Decommissioning liabilities with respect to the Auctioned Assets pursuant to Section 2.03(a) and (ii) Seller shall request and use its reasonable best efforts to obtain prior to the Closing Date an advisory opinion from the New York State Tax Department that the transfer to Buyer of the assets of the Qualified Decommissioning Fund and the Nonqualified Decommissioning Fund, if any, is not a taxable transaction subject to New York State Gross Receipts Tax.

SECTION 6.08. Decommissioning. If Buyer has determined as of the expiration date of the NRC operating license for Indian Point Unit 2, including any extension thereof granted by the NRC (the "Expiration Date"), that

Decommissioning shall occur by a method other than Decon, Buyer shall cause to be paid to Seller from the Buyer Decommissioning Funds an amount equal to fifty percent of the Excess Decommissioning Funds (the "Payment Amount") on the Expiration Date, provided that such payment is permitted under NRC Law and the trust indentures relating to the Buyer Decommissioning Funds (the "Buyer Trust Indentures"). If such payment is not permitted under NRC Law or the Buyer Trust Indentures, then at the completion of Decommissioning, the Payment Amount, and any income with respect thereto accrued from the Expiration Date, shall be paid to Seller.

SECTION 6.09. Bulk Sales or Transfer Laws. Buyer acknowledges that Seller will not comply with the provisions of any bulk sales or transfer laws of any jurisdiction in connection with the transactions contemplated by this Agreement. Buyer hereby waives compliance by Seller with the provisions of the bulk sales or transfer laws of all applicable jurisdictions.

SECTION 6.10. Storage And Risk of Loss Concerning Certain Auctioned Assets. Seller shall store or cause to be stored for Buyer any Auctioned Assets not located at the Generating Plants, the Gas Turbines or the Toddville Training Center (including supplies, materials, and spare parts inventory) at Seller's warehouse facilities located in Astoria, Queens County, New York or at such other facilities as the Parties mutually agree in writing until the date that is six months after the Closing Date or, in respect of all or a portion of such Auctioned Assets, until one or more earlier dates proposed by Buyer with reasonable advance notice, which schedule shall be reasonably acceptable to Seller. Buyer agrees to reimburse Seller for its reasonable costs and expenses in connection with such storage. Buyer agrees that Seller shall have no responsibility or liability for the removal of such Auctioned Assets from the storage location, and that Buyer shall have sole responsibility and liability therefor. Seller shall cooperate and allow Buyer to remove the same. Notwithstanding the provisions of Section 9.01, Buyer agrees that Seller shall have no liability or obligation whatsoever for loss or damage with respect to the matters contemplated by this Section 6.10 or such Auctioned Assets, and Buyer agrees to hold each Seller Indemnatee harmless from and against all loss or damage or Indemnifiable Losses, and to indemnify each Seller Indemnatee from and against all loss or damage or Indemnifiable Losses incurred, asserted against or suffered as a result of any storage or other services provided by Seller pursuant to this Section 6.10, in each case, except to the extent any such loss or damage or Indemnifiable Loss results in whole or in part from the gross negligence or

wilful or wanton acts or omissions to act of any Seller Indemnatee (or any contractor or subcontractor of Seller).

SECTION 6.11. Information Resources. From the Closing Date until the date that is 180 days thereafter, Seller shall, at no cost to Buyer, provide Buyer with access to Seller's mainframe computer only to the extent reasonably necessary to enable Buyer to use the PPMIS, MMS (in read only mode), NPMEL, TNMS and Metaphase systems and applications solely in connection with the Auctioned Assets. Buyer shall pay Seller a fee of \$25,000 for each 30-day period (prorated for partial periods) beyond such 180-day period during which Buyer uses any or all of such systems or applications; provided that upon the expiration of such 180-day period, Seller shall have the right to terminate such use at any time upon 60 Business Days' prior written notice to Buyer. Such payment by Buyer shall be due and payable to Seller not later than 10 Business Days after the end of each 30-day period during which Buyer used any such system or application. Any amount to be paid under this Section 6.11 shall be paid with interest for the period commencing on the due date for such payment through the payment date, calculated at the prime rate of The Chase Manhattan Bank in effect on such due date, and in cash by wire transfer of immediately available funds. Buyer agrees that it will not use any such access for any purpose other than for the use of the PPMIS, MMS, NPMEL, TNMS and Metaphase systems and applications solely in connection with the Auctioned Assets. Buyer acknowledges that, as long as it retains access to Seller's mainframe computer, Seller, its employees and third parties shall have access to Buyer's information resources systems and applications (including the PPMIS, MMS, NPMEL, TNMS and Metaphase systems and applications that Buyer is permitted to use hereunder) in order to operate, maintain, modify, or secure Seller's information resources systems and applications (including PPMIS, MMS, NPMEL, TNMS and Metaphase systems) and Seller's mainframe computers. Notwithstanding the provisions of Section 9.01, Buyer agrees that Seller shall have no liability or obligation whatsoever for loss or damage with respect to the matters contemplated by this Section 6.11, and Buyer agrees to hold each Seller Indemnatee harmless from and against all loss or damage or Indemnifiable Losses, and to indemnify each Seller Indemnatee from and against all loss or damage or Indemnifiable Losses incurred, asserted against or suffered as a result of Buyer's access to Seller's mainframe computer pursuant to this Section 6.11, in each case, except to the extent any such loss or damage or Indemnifiable Loss results in whole or in part from the gross negligence or wilful or wanton acts or omissions to act of any Seller Indemnatee (or any contractor or subcontractor of Seller).

SECTION 6.12. Witness Services. At all times from and after the Closing Date, each Party shall use reasonable best efforts to make available to the other Party, upon reasonable written request, its and its subsidiaries' then current or former officers, directors, employees and agents as witnesses to the extent that (i) such persons may reasonably be required by such requesting Party in connection with any claim, cause of action, proceeding or investigation in which such requesting Party may be involved and (ii) there is no conflict between Buyer and Seller in such claim, cause of action, proceeding or investigation. Such other Party shall be entitled to receive from such requesting Party, upon the presentation of invoices for such witness services, payments for such amounts, relating to supplies, disbursements and other out-of-pocket expenses and direct and indirect costs of employees who are witnesses, as may be reasonably incurred in providing such witness services.

SECTION 6.13. Trade Names. In furtherance of the transfer of the Auctioned Assets described in Section 2.02(a)(vii), Seller shall not object to the use by Buyer of any trade names, trademarks, service marks or logos (and any rights to and in the same, including any right to use the same) primarily relating to the Generating Plants and Gas Turbines that contain the words "Indian Point".

SECTION 6.14. Steam Generator Storage Facility. Seller shall cause a suitable storage facility for the long-term on-site storage of the replaced steam generators at Indian Point Unit 2 to be constructed and the replaced steam generators shall be stored therein in compliance with applicable Law prior to the Closing Date.

SECTION 6.15. Availability of Cooling Water Usage Credits. (a) At Buyer's option, which shall be exercised by written notice to Seller prior to Closing, Seller shall transfer at Closing any environmental credit points that are held by Indian Point Unit 2 pursuant to the Fourth Amended Stipulation of Settlement and Judicial Consent Order in Natural Resources Defense Council, Inc. v. New York State Department of Environmental Conservation among the Natural Resources Defense Council, Inc., Hudson River Fishermen's Association, d/b/a Hudson Riverkeeper Fund, Inc., Scenic Hudson, Inc., NYSDEC, John P. Cahill as acting commissioner of NYSDEC, Seller, NYPA, Orange & Rockland Utilities, Inc., and Central Hudson Gas & Electric Corporation, executed by the Honorable Joseph C. Teresi on October 23, 1997 (the "Consent Order"), which Consent Order, by its terms, has expired.

(b) If Buyer exercises its option under Section 6.15(a) and, notwithstanding the expiration of the Consent Order, for so long as the July outage requirement at the Bowline Point electric generating station ("Bowline"), as specified in paragraph 3 of the Consent Order, continues in effect upon the owner(s) of Bowline and may be met by drawing 2.8 unit-days of outage from Indian Point Unit 2's existing balance of unit-days of outage that were accrued in excess of those required by Indian Point Unit 2 under the Settlement Agreement, as provided for under paragraph 3 of the Consent Order, Buyer shall provide the owner(s) of Bowline with such 2.8 unit-days of outage for use at Bowline at no cost.

SECTION 6.16. Nuclear Insurance. Buyer shall maintain any Nuclear Insurance Policies transferred to Buyer as contemplated by Section 2.02(a)(xii) and shall obtain and maintain any other policies of liability and property insurance with respect to the ownership, operation, and maintenance of the Generating Plants which shall afford protection against insurable hazards and risks which meet the requirements of 10 C.F.R. Section 50.54(w) and 10 C.F.R. Part 140 and are consistent with Prudent Utility Practices. Such coverage shall include (a) nuclear liability insurance in such form and in such amount as (i) will provide at least the same degree of protection to Seller that is provided to Seller under the Nuclear Insurance Policies that are contemplated to be transferred to Buyer pursuant to Section 2.02(a)(xii) and (ii) will meet the financial protection requirements of the Atomic Energy Act, and (b) an indemnification agreement as contemplated by Section 170 of the Atomic Energy Act. In the event that the nuclear liability protection system contemplated by Section 170 of the Atomic Energy Act is repealed or changed, Buyer shall obtain and maintain alternate protection against nuclear liability for such period as may be necessary to cover liability arising out of or resulting from the Auctioned Assets, to the extent available and consistent with Prudent Utility Practices, providing substantially equivalent protection to Seller that is provided to Seller under the Nuclear Insurance Policies that are contemplated to be transferred to Buyer pursuant to Section 2.02(a)(xii).

SECTION 6.17. Update of Schedules. Seller shall promptly supplement or otherwise amend the Schedules 4.03(a), 4.04(b), 4.07(a), 4.08, 4.09(a), 4.09(b), 4.10, 4.11, 4.13, 4.16(a), 4.16(b) and 4.17 (together, as supplemented or amended, the "Updated Schedules") with respect to matters arising after the date of this Agreement which, if existing at the date of this Agreement, would have been set forth in the Schedules. Upon delivery to Buyer,

the Updated Schedules shall become part of this Agreement in lieu of the relevant predecessor Schedules. In the event that Seller delivers Updated Schedules within five Business Days of the Closing Date, Buyer shall be entitled to extend, by written notice to Seller, the Closing Date to the fifth Business Day after Buyer has received such Updated Schedules. Notwithstanding the foregoing, (i) any such Updated Schedules shall not, except as Buyer may otherwise agree in writing, be deemed to have cured any breach of any representation or warranty made by Seller as of the date of this Agreement and (ii) to the extent that any Updated Schedule or Schedules shall contain a Material Adverse Effect that is not cured or waived, the Closing condition set forth in Section 7.02(p) shall not be satisfied.

ARTICLE VII

Conditions

SECTION 7.01. Conditions Precedent to Each Party's Obligations. The respective obligations of each Party to effect the purchase, sale and transfer of the Auctioned Assets contemplated by this Agreement shall be subject to the satisfaction or waiver by such Party on or prior to Closing of the following conditions:

(a) each of the Seller Required Regulatory Approvals and each of the Buyer Required Regulatory Approvals shall have become a Final Order (a "Final Order" means any action by the relevant regulatory authority which has not been reversed, stayed, enjoined, set aside, annulled or suspended, as to which any waiting period prescribed by law for the consummation of the transactions contemplated hereby has expired and as to which all conditions to the consummation of such transactions prescribed by Law have been satisfied), and such Final Order shall be in form and substance reasonably acceptable to the Party that sought the consent or approval granted by such Final Order (for purposes of the immediately preceding clause, (i) if Seller is the Party that sought the consent or approval granted by a Final Order, such Final Order shall be deemed to be reasonably acceptable to Seller if it (A) complies in all material respects with the terms and conditions of Seller's application therefor and (B) would not reasonably be expected to have a Seller Material Adverse Effect, (ii) if Buyer is the Party that sought the consent or approval granted by a Final Order, such Final Order shall be deemed to be reasonably acceptable to Buyer if it (A) complies in all material respects with the terms and conditions of Buyer's application therefor and (B) would not reasonably be

expected to have a Buyer Material Adverse Effect, and (iii) if Seller and Buyer jointly sought, in the same application, the consent or approval granted by a Final Order, such Final Order shall be deemed to be reasonably acceptable to Seller if (A) it complies in all material respects with the terms and conditions of the joint application therefor and (B) it would not reasonably be expected to have a Seller Material Adverse Effect, and such Final Order shall be deemed to be reasonably acceptable to Buyer if it (A) complies in all material respects with the terms and conditions of the joint application therefor and (B) would not reasonably be expected to have a Buyer Material Adverse Effect); provided, however, that if there shall be pending or threatened any appeal or challenge to a Final Order, which, if adversely determined, would cause such Final Order not to be reasonably acceptable (within the meaning of the immediately preceding parenthetical) to the Party that sought such Final Order, then if such Party notifies the other Party that such pending or threatened appeal or challenge exists (such notification to be made as soon as reasonably practicable following knowledge of such pending or threatened appeal or challenge), then such determination of whether a Final Order is reasonably acceptable to the Party who sought it shall be made only after all opportunities for rehearing or judicial review are exhausted and provided, further, that if the determination of whether a Final Order is reasonably acceptable to the Party who sought it shall be delayed pursuant to the foregoing proviso, the Termination Date shall be automatically extended for a period of time equal to the period of time for which such determination shall have been delayed;

(b) no (A) suit, action or other proceeding that has a reasonable likelihood of success against any Party or its Affiliates or any of the Auctioned Assets shall be pending before any Governmental Authority which seeks to restrain or prohibit any of the transactions contemplated hereby or by the Ancillary Agreements, or (B) preliminary or permanent injunction, judgment, order or decree by any federal or state court of competent jurisdiction and no statute, rule or regulation enacted by any Governmental Authority preventing the consummation of any of the transactions contemplated hereby or by the Ancillary Agreements (collectively, "Restraints") shall be in effect; and

(c) delivery of each of the Deeds, the Continuing Site Agreement, the Declaration of Easements Agreement and a Memorandum of the GT Site Ground Lease to the Title Company for recording.

SECTION 7.02. Conditions Precedent to Obligation of Buyer. The obligation of Buyer to effect the purchase, sale and transfer of the Auctioned Assets contemplated by this Agreement shall be subject to the satisfaction or waiver by Buyer on or prior to Closing of the following additional conditions:

(a) Seller shall have performed in all material respects its covenants, agreements and obligations contained in this Agreement which are required to be performed on or prior to Closing;

(b) the representations and warranties of Seller which are set forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of the date of this Agreement, in which case as of such date);

(c) Buyer shall have received a certificate from an authorized officer of Seller, dated the Closing Date, to the effect that, to the best of such officer's knowledge, the conditions set forth in Sections 7.02(a) and (b) have been satisfied;

(d) all consents, waivers and approvals required to transfer the Required Contracts, Required Software, Patents (to the extent necessary to operate the Generating Plants and the Gas Turbines in the manner currently operated by Seller) and Transferable Permits to Buyer shall have been obtained on or prior to Closing and all Required Contracts, Required Software, Patents (to the extent necessary to operate the Generating Plants and the Gas Turbines in the manner currently operated by Seller) and Transferable Permits shall have been transferred to Buyer at or prior to Closing;

(e) Buyer shall have received (i) deeds of conveyance substantially in the form of Exhibits A-1 and A-2 (the "Deeds"), (ii) a Foreign Investment in Real Property Tax Act Certification and Affidavit substantially in the form of Exhibit B and (iii) an opinion from John D. McMahon, Esq., General Counsel of Seller and/or other counsel reasonably acceptable to Buyer, dated the Closing Date, substantially in the form set forth in Exhibit C;

(f) unless Seller shall have made the election described in Section 9.01(a)(v), Buyer shall have

received the IRS rulings contemplated to be received by Buyer pursuant to Section 6.07(c);

(g) in accordance with Section 6.07(a), Seller shall have transferred all of the assets of the Qualified Decommissioning Fund to Buyer and the aggregate Fair Market Value of the assets of the Decommissioning Funds transferred to Buyer pursuant to Sections 6.07(a) and (b) shall not be less than \$430,000,000;

(h) the Title Company shall have agreed to issue (as evidenced by binding commitments of the Title Company which shall have been delivered to Buyer) immediately after Closing to Buyer, at Buyer's expense and at standard rates, a current ALTA (1992) Owner's Title Insurance Policy (as filed in New York with the standard New York endorsement) insuring title to the fee and leasehold interests in the Buyer Real Estate to be conveyed/granted to Buyer pursuant to this Agreement in an amount equal to that portion of the Purchase Price properly allocable to such interests, subject only to Permitted Exceptions, and Seller shall have delivered affidavits to the Title Company in substantially the form attached as Exhibit D;

(i) (A) Seller shall have replaced the steam generators at Indian Point Unit 2 with the spare steam generators being stored by Seller, (B) Indian Point Unit 2 shall have been restarted and during any single 24-hour period subsequent to such restart Indian Point Unit 2 shall have, as applicable, demonstrated net electrical capacity of (i) 941 megawatts (during the summer period) or (ii) 976 megawatts (during the winter period) and, (C) at Closing, no forced reduction of greater than 5% of such electrical capacity or no outage shall be ongoing at Indian Point Unit 2;

(j) Seller shall have obtained a waiver that permits Seller, without first offering such undivided interests to NYPA, to transfer to Buyer the undivided interests of Seller as a tenant in common with NYPA to the following described personal property, fixtures, structures, improvements, or other interests, excepting the fee to the land on which, over which, or under which such interests are erected or located, in each case as more specifically described in the deed dated December 30, 1975, executed by Seller and NYPA, and recorded in the County Clerk's Office of Westchester County, New York, on December 31, 1975 in Liber 7306, page 736 (the "1975 Deed"): (1) that portion of the

circulating water Discharge Canal lying south of a line parallel to and 135 feet south of the northerly boundary of "PARCEL A" (such term being as defined in the 1975 Deed), delineated on "Map No. 1" (such term being as defined in the 1975 Deed) and designated thereon as "PAC-3"; (2) the outfall gates Control House and power and control conduits serving the Control House and the outfall gates (but omitting such portion of such power and control conduits as are found on the outfall gates and associated structures westerly of the westerly boundary of PARCEL A within lands now or formerly of the New York State Atomic and Space Development Authority or its successor, the New York State Energy Research and Development Authority), and appurtenances thereto, delineated on Map No. 1 and designated thereon as "PAC-4"; (3) the Meteorological Tower, the Meteorological Trailer, forward scatter meter, associated foundations, structures, supports, anchors, and other associated facilities and appurtenances, delineated on Map No. 1 and designated thereon as "PAC-8"; and (4) the outfall gates power cables running from PARCEL A underground through "EASEMENT PARCEL 1" (such term being defined in the 1975 Deed) to MCC 10Z in the Screenwell Structure No. 1 on EASEMENT PARCEL 1 (as delineated and designated on Map No. 1) and associated control wires from PARCEL A underground through EASEMENT PARCEL 1 to Control Building No. 1, such facilities being designated as "CEC-3" on Map No. 1, together with appurtenances;

(k) Seller shall have executed and delivered the GT Site Ground Lease;

(l) Seller shall have executed and delivered the Continuing Site Agreement;

(m) Seller shall have executed and delivered the Declaration of Easements Agreement;

(n) Seller shall have executed and delivered the Power Purchase Agreement;

(o) Seller shall have entered into an Electric Service Contract regarding the provision and/or delivery of Station-Use Energy as defined in the Continuing Site Agreement;

(p) since the date of this Agreement, there shall not have occurred and be continuing a Material Adverse Effect; and

(g) Seller shall have executed and delivered each of the following:

(i) a bill of sale by which title to Auctioned Assets constituting personal property shall be conveyed to Buyer, substantially in the form of Exhibit H (the "Bill of Sale");

(ii) a copy, certified by the Secretary of Seller, of resolutions authorizing the execution and delivery of this Agreement and the Ancillary Agreements and instruments attached as exhibits hereto and thereto, and the consummation of the transactions contemplated hereby;

(iii) a certificate of the Secretary of Seller certifying the certificate of incorporation and bylaws of Seller and the authority of the officers of Seller executing this Agreement and the Ancillary Agreements;

(iv) certificates of title for the vehicles set forth in Schedule 2.02(a)(iii), to the extent such certificates of title are necessary for the transfers of such vehicles; and

(v) such other agreements, consents, documents, instruments and writings as are reasonably requested to be delivered by Seller at or prior to Closing pursuant to this Agreement or the Ancillary Agreements, including all such other instruments of sale, transfer, conveyance, assignment or assumption as Buyer may reasonably request in connection with the transactions contemplated hereby;

SECTION 7.03. Conditions Precedent to Obligation of Seller. The obligation of Seller to effect the purchase, sale and transfer of the Auctioned Assets contemplated by this Agreement shall be subject to the satisfaction or waiver by Seller on or prior to Closing of the following additional conditions:

(a) Buyer shall have performed in all material respects its covenants, agreements and obligations contained in this Agreement which are required to be performed on or prior to Closing;

(b) the representations and warranties of Buyer which are set forth in this Agreement shall be true and correct in all material respects as of the date of this

Agreement and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of the date of this Agreement, in which case as of such date);

(c) Seller shall have received a certificate from an authorized officer of Buyer, dated the Closing Date, to the effect that, to the best of such officer's knowledge, the conditions set forth in Sections 7.03(a) and (b) have been satisfied;

(d) Seller shall have received an opinion from Joseph L. Blount, Esq., General Counsel of Buyer and Entergy Nuclear, Inc. and/or other counsel reasonably acceptable to Seller, dated the Closing Date, substantially in the form set forth in Exhibit E;

(e) unless Buyer shall have made the election described in Section 9.01(b)(iv), Seller shall have received the IRS rulings and the New York State Department of Taxation advisory opinion contemplated to be received by Seller pursuant to Section 6.07(c);

(f) Buyer shall have entered into an Electric Service Contract regarding the provision and/or delivery of Station-Use Energy as defined in the Continuing Site Agreement;

(g) Guarantor shall have executed and delivered the Guarantee Agreement and Seller shall have received an opinion substantially in the form of Exhibit G dated the Closing Date and from counsel reasonably acceptable to Seller;

(h) Buyer shall have executed and delivered the GT Site Ground Lease;

(i) Buyer shall have executed and delivered the Continuing Site Agreement;

(j) Buyer shall have executed and delivered the Declaration of Easements Agreement;

(k) Buyer shall have executed and delivered the Power Purchase Agreement; and

(l) Buyer shall have executed and delivered each of the following:

(i) a copy, certified by the Secretary of Buyer, of resolutions authorizing the execution

and delivery of this Agreement and the Ancillary Agreements and instruments attached as exhibits hereto and thereto, and the consummation of the transactions contemplated hereby;

(ii) a certificate of the Secretary of Buyer certifying the certificate of incorporation and bylaws of Buyer and the authority of the officers of Buyer executing this Agreement and the Ancillary Agreements; and

(iii) such other agreements, consents, documents, instruments and writings as are reasonably requested to be delivered by Buyer at or prior to Closing pursuant to this Agreement or the Ancillary Agreements, including all such other instruments of sale, transfer, conveyance, assignment or assumption as Seller may reasonably request in connection with the transactions contemplated hereby.

ARTICLE VIII

Employee Matters

SECTION 8.01. Employee Matters. (a) ENO shall offer equivalent employment at the Auctioned Assets to those employees of Seller, regularly assigned by Seller to work at the Auctioned Assets as of Closing in the job titles listed in Schedule 8.01(a) or in the Collective Bargaining Agreement (all such employees described above and those individuals described in the following sentence being hereinafter referred to as "Affected Employees"). Notwithstanding the foregoing, the offer of employment to Affected Employees who are officers as of Closing need not be equivalent. Affected Employees shall include each such employee of Seller who is not actively at work due solely to a temporary absence, whether paid or unpaid, in accordance with applicable policies of Seller, including as a result of vacation, holiday, personal time, leave of absence, union leave, sick allowance, military leave, Family or Medical Leave Act leave or jury duty. Affected Employees also include each such former employee of Seller who is reinstated as a result of a legal proceeding arising out of employment with Seller (including any arbitration proceeding) during (i) the Union Transition Period, in the case of an Affected Union Employee and (ii) the Non-Union Transition Period, in the case of an Affected Employee who is not an Affected Union Employee, provided that Seller shall be responsible for any monetary obligations or expense

involved with respect to each such reinstatement, including, without limitation, backpay, damage awards and attorneys' fees. Each Affected Employee who accepts an offer of employment from ENO shall be referred to herein as a "Continued Employee." Continued Employees shall cease to be employees of Seller as of Closing and the period of employment by ENO of the Continued Employees shall begin at Closing. Notwithstanding the immediately preceding sentence, any Affected Employee who, on Closing, is not actively at work and has been absent for a continuous six-month period immediately prior to Closing on account of an illness or injury (a "Special Affected Employee") shall not become a Continued Employee until he or she is able to report to work for ENO. A Special Affected Employee shall remain on Seller's payroll until the earlier of (i) the expiration of his or her Seller's sick allowance and termination from employment by Seller, or (ii) he or she is able to report to work for ENO. Seller shall reimburse Buyer for all wages, compensation, or other benefits paid by ENO to any Continued Employee who was not actively at work on account of an illness or injury as of Closing, and who, on account of such illness or injury does not report to work for ENO before his or her sick allowance benefits expire. As to each such Continued Employee, his or her employment shall terminate on the date immediately after his or her sick allowance benefits expire. Seller's reimbursement shall in no event exceed the compensation and benefits to which each such Continued Employee would have been entitled had he or she continued to be employed by Seller until his or her sick allowance benefits expired. Seller shall be responsible for any obligation to provide employee benefits to Affected Employees prior to Closing.

All such offers of employment to Affected Employees will be made (i) in accordance with all applicable Laws and (ii) for employees represented by Utility Workers' Union of America AFL-CIO and its Local Union 1-2 ("Local 1-2"), in accordance with the Local 1-2 Collective Bargaining Agreement (as defined in Section 8.01(b)). ENO may extend offers for employment to Affected Employees beginning four weeks prior to Closing. To the extent ENO continues to employ Continued Non-Union Employees, ENO shall maintain equivalent employment of such employees for a period of not less than twelve months after Closing. At least four weeks prior to Closing and at Closing, Seller shall confirm to ENO that each Affected Employee (prior to Closing) or Continued Employee (at Closing), as applicable, (A) is qualified, licensed, certified or trained in accordance with applicable government requirements or standards to perform the duties and responsibilities of his or her current job assignment and (B) has the appropriate nuclear power plant

authorization. Subject to the provisions of this Article VIII, ENO retains the right to assign and direct the work of the Continued Non-Union Employees and to conduct its business and operations consistent with its business needs.

(b) Schedule 8.01(b) sets forth the 2000-2004 collective bargaining agreement, and amendments thereto, to which Seller is a party in connection with the Auctioned Assets (the "Collective Bargaining Agreement"). Affected Employees who are included in the collective bargaining unit covered by the Collective Bargaining Agreement are referred to herein as "Affected Union Employees". Each Continued Employee who is an Affected Union Employee shall be referred to herein as a "Continued Union Employee". At Closing, ENO will assume the terms and conditions of the Collective Bargaining Agreement, except as set forth in Section 8.02(b) below and negotiated in good faith with Local 1-2, as they relate to Continued Union Employees until the expiration date of the Collective Bargaining Agreement (the "Union Transition Period"). ENO will comply with its legal obligations with respect to collective bargaining under federal labor law for the employees at the Auctioned Assets in the job titles or related work responsibilities of the Affected Union Employees, and ENO will comply with all applicable obligations thereunder. ENO shall recognize Local 1-2 as the exclusive collective bargaining representative of the employees at the Auctioned Assets in the job titles or related work responsibilities of the Affected Union Employees and Buyer and ENO agree that, should any other business entity (regardless of its relationship to Buyer or ENO) acquire all or a portion of the Auctioned Assets from Buyer prior to the expiration date of the Collective Bargaining Agreement, Buyer and ENO will require such business entity to (i) offer employment to Affected Union Employees employed by ENO at the Auctioned Assets immediately prior to the change in ownership; (ii) recognize Local 1-2 as the exclusive collective bargaining representative of ENO's employees at the Auctioned Assets in the job titles or related work responsibilities of the Affected Union Employees; and (iii) assume the terms and conditions of the Collective Bargaining Agreement as they relate to Affected Union Employees from the date of such acquisition through the expiration date of the Collective Bargaining Agreement.

SECTION 8.02. Continuation of Equivalent Benefit Plans/Credited Service. (a) For not less than three years following Closing (the "Non-Union Transition Period"), ENO

shall maintain compensation (including base pay and bonus compensation) and employee benefits and employee benefit plans, nonqualified plans and arrangements for each

Continued Employee who is not a Continued Union Employee (a "Continued Non-Union Employee") which are at least equivalent to those provided to such Continued Non-Union Employee pursuant to Seller's compensation, employee benefits and employee benefit plans, nonqualified plans and arrangements described in Section 8.02 through 8.09, that are in effect as of Closing. Seller's benefits, plans and arrangements listed on Schedule 4.12, but not specifically enumerated in Section 8.02 through 8.09, are referred to as "Seller's 4.12 Benefits". In addition to those benefit plans listed in Section 8.02 through 8.09, ENO shall maintain benefits which, in the aggregate, are equivalent in value to Seller's 4.12 Benefits. ENO may substitute for the Seller's employee stock purchase plan an enhancement to ENO's 401(k) Plans described in Section 8.04 below or an alternative plan or arrangement that is at least of equivalent value to the Seller's stock purchase plan. Such compensation shall be based upon (x) such employee's existing individual base pay, (y) such employee's authorized overtime, if applicable, and (z) the average bonus and benefit component for such employee's salary plan level, as consistently applied by Seller, apportioned according to such employee's base pay.

(b) During the Union Transition Period, ENO shall provide to each Continued Union Employee benefits and employee benefit plans and arrangements which are equivalent to those provided under such Collective Bargaining Agreement. Such benefits, plans and arrangements include the following: (i) hospital, medical, dental, vision care and prescription drug benefits (including employee contributions to be made on a pre-tax basis), (ii) health care and dependent care flexible spending accounts; (iii) employer-provided basic group term life and accidental death and dismemberment insurance; (iv) employee-paid group universal life and spousal and dependent child life insurance; (v) sick allowance (short term disability) and long term disability benefits; (vi) business travel accident insurance and crime protection insurance; (vii) occupational accidental death insurance; (viii) adoption benefits and child care and elder care referral benefits; (ix) tuition aid benefits; (x) vacation and holidays; (xi) employee stock purchase plan (including employer matching contributions) or such alternative plan or arrangement negotiated in good faith with Local 1-2; and (xii) defined benefit pension and 401(k) plan benefits. In providing such benefits, ENO shall have the right, subject to any applicable Laws and the Collective Bargaining Agreement, to use different providers from those used by Seller and to establish ENO's own benefit plans or use ENO's existing benefit plans. For purposes hereof, except as provided in Section 8.04(b), ENO shall not

have any obligation to maintain a fund holding or measured by common stock of Seller's parent under any of ENO's plans or arrangements, notwithstanding any such fund maintained by Seller under its plans and arrangements.

(c) Continued Employees shall be given credit by ENO for all service with Seller and its Affiliates under all existing or future employee benefit and fringe benefit plans, programs and arrangements of ENO ("Buyer Benefit Plans") in which they become participants and in which prior service is recognized for crediting the amount or value of the benefit. The service credit given by ENO shall be for purposes of eligibility, vesting, eligibility for early retirement and early retirement subsidies, benefit accrual, pre-existing condition limitation, employer contributions, matching contributions, severance allowance and service-related level of benefits. ENO shall assume and honor all vacation, sick and personal days accrued and unused by Continued Employees as of Closing in accordance with Seller's applicable policies and arrangements.

SECTION 8.03. Pension Plan. (a) Effective as of Closing, ENO shall have in effect defined benefit pension plans ("Buyer's Pension Plans") intended to be: (i) qualified pursuant to Section 401(a) of the Code and (ii) nonqualified, in order to provide for benefits which would otherwise be payable under the applicable qualified plan but for the application of Sections 401(a)(17) and 415 of the Code, providing benefits as of Closing identical in all material respects (except for such changes as may be required by Law) to the benefits provided to them under Seller's Pension Plans (as defined below), in particular (x) for Continued Non-Union Employees, such Buyer's Pension Plans to provide benefits identical in all material respects to those benefits provided under Seller's Retirement Plan for Management Employees, or its successor plan, and Seller's Supplemental Retirement Income Plan, and (y) for Continued Union Employees, such Buyer's Pension Plans to provide benefits identical in all material respects to those provided under Seller's Pension and Benefits Plan, or its successor plan (collectively, "Seller's Pension Plans"), in each case, as of Closing. ENO acknowledges and agrees that one such material respect is to count age after termination of employment with ENO for purposes of satisfying requirements in Buyer's Pension Plans for early retirement eligibility and early retirement subsidies.

(b) Continued Employees participating in Seller's Pension Plans immediately prior to Closing shall become participants in Buyer's Pension Plans as of Closing. Without limiting the generality of Section 8.02(c),

Continued Employees shall receive credit for all compensation and service with Seller (subject to the terms of Seller's Pension Plans as then in effect) for purposes of eligibility for participation, vesting, eligibility for early retirement and early retirement subsidies and benefit accrual under Buyer's Pension Plans. Seller shall be responsible and shall retain the assets for the Continued Employees' pension benefits accrued up to Closing, and ENO shall be responsible for pension benefits accrued by such Continued Employees after Closing as provided herein. ENO may offset against the accrued benefits determined under Buyer's Pension Plans the accrued benefits determined under Seller's Pension Plans. For the purpose of this Section 8.03(b), "accrued benefit" means the amount that would be paid as a life annuity at normal retirement age irrespective of the date of actual distribution from either Seller's or Buyer's Pension Plans. Seller shall make pension distributions to Continued Employees of the vested portion of their accrued benefits in accordance with the terms of Seller's Pension Plans as in effect from time to time. As soon as reasonably practicable following Closing, Seller shall provide ENO a list showing, as of Closing, the accrued benefit of each Continued Employee under Seller's Pension Plans.

(c) In the event that any other business entity (regardless of its relationship to Buyer or ENO) acquires all or a portion of the Auctioned Assets from Buyer at any time during the Non-Union Transition Period in the case of Continued Non-Union Employees and during the Union Transition Period in the case of Continued Union Employees, Buyer and ENO will require such entity to maintain ENO's defined benefit plans, provide the benefits and recognize compensation and service with Seller and ENO to the same extent as ENO is required under Sections 8.03(a) and (b) above.

SECTION 8.04. 401(k) Plan. (a) Effective as of Closing, ENO shall have in effect tax-qualified defined contribution plans and trust arrangements thereunder that include a qualified cash or deferred arrangement within the meaning of Section 401(k) of the Code ("Buyer's 401(k) Plans") that will provide benefits that are identical in all material respects (except for such changes as may be required by Law) to those provided by (i) Seller's Thrift Savings Plan for Management Employees, in the case of Continued Non-Union Employees, and (ii) Seller's Retirement Income Savings Plan for Weekly Employees, in the case of Continued Union Employees (such Seller plans herein referred to collectively as "Seller's 401(k) Plans"), in each case, as of Closing. Each Continued Employee participating in

Seller's 401(k) Plans immediately prior to Closing shall become a participant in Buyer's 401(k) Plans as of Closing. Continued Employees shall receive credit for all service with Seller for purposes of eligibility, vesting and employer matching and, if applicable, profit sharing contributions under Buyer's 401(k) Plans.

(b) At such time after Closing as Seller is reasonably satisfied that Buyer's 401(k) Plans meet the requirements for qualification under Section 401(a) of the Code, Seller shall cause to be transferred to Buyer's 401(k) Plans in a trust-to-trust transfer in common stock of Seller's parent (as provided in the following sentence) and cash (or other property reasonably acceptable to ENO) an amount equal to the value of the assets held in the accounts of all Continued Employees (including any outstanding loan balances of Continued Employees in Seller's 401(k) Plans), subject to any qualified domestic relations orders. Prior to such transfer, Seller shall make all employer contributions that accrued prior to Closing with respect to the accounts of Continued Employees under Seller's 401(k) Plans. In connection therewith, ENO shall establish an investment fund under Buyer's 401(k) Plans to which shall be transferred the shares of common stock of Seller's parent (or any successor thereto) which, as of the date of transfer, are credited to the accounts of the Continued Employees under Seller's 401(k) Plans. The investment fund(s) available under the Buyer's 401(k) Plans shall offer a broad range of investment alternatives, including at least three diversified investment alternatives, each of the three having materially different risk and return characteristics and containing diversified assets. After Closing and prior to any such transfer, ENO shall cooperate with Seller in the administration of distributions to and loan repayments by Continued Employees. Prior to such transfer of assets, Seller shall vest any unvested benefits of Continued Employees under Seller's 401(k) Plans. Following any such transfer of assets, ENO shall assume all obligations and liabilities of Seller under Seller's 401(k) Plans with respect to such Continued Employees, and Seller shall have no further liability to ENO or any Continued Employee with respect thereto.

SECTION 8.05. Welfare Plans. (a) Continued Employees and their dependents who are eligible to participate in Seller's current welfare benefits plans, programs or arrangements shall be eligible to participate in equivalent welfare benefits plans, programs or arrangements maintained or established by ENO ("Buyer's Welfare Plans"), effective as of Closing. Effective as of Closing, any limitations as to pre-existing conditions and actively-at-

work exclusions and waiting periods under Buyer's Welfare Plans shall be waived by ENO with respect to Continued Employees and their eligible dependents to the extent satisfied under Seller's applicable Welfare Plans. In addition, effective as of Closing, ENO shall cause Buyer's Welfare Plans to recognize any out-of-pocket expenses incurred by Continued Employees and their eligible dependents prior to Closing and during the calendar year in which such Closing occurs for purposes of determining their deductibles and out-of-pocket maximums under Buyer's Welfare Plans. Seller shall retain responsibility under Seller's welfare plans for claims or causes of action relating to expenses incurred by Continued Employees and their eligible dependents prior to Closing. ENO shall have responsibility under Buyer's Welfare Plans for claims or causes of action relating to expenses incurred by Continued Employees and their eligible dependents on and after Closing. Seller expressly agrees to remain responsible for making COBRA continuation coverage available to Affected Employees and Special Affected Employees and their eligible dependents who do not become Continued Employees.

(b) Effective as of Closing, ENO shall have in effect health care and dependent care reimbursement account plans for the benefit of each Continued Employee, the terms of which shall (i) be identical in all material respects to the Flexible Reimbursement Account Plans for Management and Weekly Employees of Seller ("Seller's Reimbursement Account Plans") as in effect as of Closing and (ii) give full effect to, and continue in effect, salary reduction elections made under Seller's Reimbursement Account Plans. Prior to Closing, Seller shall cause the accounts of Continued Employees under Seller's Reimbursement Account Plans to be segregated into separate health care, dependent care and transportation reimbursement accounts (the "Segregated Reimbursement Accounts"), and such Segregated Reimbursement Accounts shall be transferred to and assumed by ENO as of Closing.

(c) ENO shall, subject to any applicable Laws, provide a retiree health program identical in all material respects to Seller's retiree health program as in effect as of Closing to each Continued Employee who terminates his employment with ENO during the Non-Union Transition Period, in the case of a Continued Non-Union Employee, and during the Union Transition Period, in the case of a Continued Union Employee, and, in each case, who at the time of such termination of employment satisfies the eligibility requirements for such retiree health program provided by ENO; provided, however, that Seller shall remain liable, pursuant to Seller's retiree health program, for all

Continued Employees who satisfy, as of Closing, the eligibility requirements then in effect for Seller's retiree health program.

SECTION 8.06. Short- and Long-Term Disability.

Effective as of Closing, ENO shall have in effect short- and long-term disability plans for the benefit of Continued Employees, the cost of which to Continued Employees shall be the same as under, and the terms of which are identical in all material respects to, Seller's applicable plans as in effect as of Closing. Any waiting periods and pre-existing condition clauses shall be waived under ENO's short- and long-term disability plans with respect to Continued Employees to the extent satisfied under Seller's short- and long-term disability plans.

SECTION 8.07. Life Insurance and Accidental Death and Dismemberment Insurance. Effective as of Closing, ENO shall have in effect group term life insurance, group universal life insurance, accidental death and dismemberment insurance, occupational accidental death insurance, business travel accident insurance and crime protection insurance plans for the benefit of Continued Employees, the cost of which to Continued Employees shall be the same as under, and terms of which are identical in all material respects to, Seller's applicable plans that provide such benefits to Continued Employees immediately prior to Closing.

SECTION 8.08. Severance. (a) Effective as of Closing, ENO shall have in effect a severance plan ("Buyer's Severance Plan") covering Continued Non-Union Employees that contains terms identical in all material respects to Seller's Severance Pay Plan for Management Employees, as in effect as of Closing ("Seller's Severance Plan"). Continued Non-Union Employees who become officers of ENO, if any, shall participate in the officers' severance plans available to ENO officers. With respect to Affected Employees who are officers of Seller, ENO shall assume all liabilities and obligations, if any, under Seller's Severance Program for Officers of Consolidated Edison, Inc. and its Subsidiaries or any such officer's employment agreement set forth in Schedule 2.02(a)(iv), as applicable, arising from ENO's offers of employment to such officers.

(b) ENO shall, subject to any applicable Laws, provide a special separation allowance for any Continued Employee whose employment with ENO is terminated involuntarily by ENO other than for cause during the Non-Union Transition Period, in the case of Continued Non-Union Employees, and during the Union Transition Period, in the case of Continued Union Employees. Such allowance shall be

not less than the sum of four weeks pay plus one week pay for each completed year of service (as determined by aggregating each affected individual's respective service with Seller and ENO) and shall be payable by ENO in a lump sum within 30 days after termination of employment. In addition, in the case of each Continued Non-Union Employee described in the first sentence of this Section 8.08(b), ENO shall pay the Continued Non-Union Employee a lump sum equal to the excess of (i) the actuarial equivalent of the Continued Non-Union Employee's "potential benefit" under the applicable Buyer's Pension Plans, which such Continued Non-Union Employee would receive if such Continued Non-Union Employee's employment continued until three years after Closing and such Continued Non-Union Employee's base and incentive compensation for such deemed additional period was the same as in effect on the date of such Continued Non-Union Employee's termination of employment with ENO, over (ii) the actuarial equivalent of such Continued Non-Union Employee's "actual benefit" under the applicable Buyer's Pension Plans, as of the date of such Continued Non-Union Employee's termination of employment from ENO. For the purpose of the foregoing sentence, (i) the term "potential benefit" shall refer to the monthly pension that would have been payable to the applicable Continued Non-Union Employee commencing on the first day of the month following the latest of (A) the last day of the deemed additional period, (B) Continued Non-Union Employee's attainment of age 55, or (C) the earlier of (1) the first date as of which the sum of such Continued Non-Union Employee's age and years of service, as taken into account in determining the actuarial reduction for commencement prior to normal retirement age that is to be applied to such Continued Non-Union Employee's accrued benefit under the applicable Buyer's Pension Plans, equals 75 or (2) such Continued Non-Union Employee's attainment of age 65, (ii) the term "actual benefit" shall refer to the monthly pension payable to such Continued Non-Union Employee under the applicable Buyer's Pension Plans commencing as of the date determined in accordance with clause (i) of this sentence, and (iii) the actuarial equivalent of the "potential benefit" and the "actual benefit" shall each be a lump sum payable as of the date of such Continued Non-Union Employee's termination of employment from ENO, determined on the basis of the interest rate used to determine the amount of lump sum distributions and, to the extent applicable, other actuarial assumptions then in effect under the applicable Buyer's Pension Plans. ENO shall also provide outplacement services to such terminated Continued Non-Union Employee appropriate to the level of the Continued Non-Union Employee's position and job responsibilities. ENO shall also continue to provide or cause to be provided to any such terminated Continued

Employee health insurance coverage and group term and universal life insurance coverage at the same rates as for active Continued Employees for a period equal to the number of weeks of separation allowance which any such terminated Continued Employee is entitled to from ENO. ENO shall have the right to require a release in a form reasonably satisfactory to ENO as a condition for eligibility to receive such separation allowance. The allowance shall not apply to Continued Employees whose employment is terminated due to death or expiration of sick allowance or other authorized leave of absence or who terminate employment voluntarily. If at any time during the three-year period following Closing, ENO shall assign a Continued Non-Union Employee to work on a regular basis at a location that is more than fifty miles from the location to which such Employee is assigned as of Closing, ENO shall offer such Continued Non-Union Employee the option to terminate employment and receive the severance benefits set forth in this Section 8.08(b) in lieu of the reassignment.

SECTION 8.09. Workers Compensation. Effective as of Closing, ENO shall have in effect a workers compensation program for Continued Employees that shall provide coverage identical in all material respects to Seller's workers compensation program as of Closing.

ARTICLE IX

Indemnification and Dispute Resolution

SECTION 9.01. Indemnification. (a) Seller will indemnify and hold harmless Buyer and its Affiliates and their respective directors, officers, employees, agents and representatives (collectively with Buyer and its Affiliates, the "Buyer Indemnitees") from and against any claims or causes of action, demands, or suits by any person, and all losses, liabilities, damages, obligations, payments, (including amounts paid in settlement in accordance with this Article IX), judgments, orders, decrees, rulings, liens, charges, costs and expenses (including reasonable legal fees and expenses and including costs and expenses incurred in connection with investigations and settlement proceedings) (each, an "Indemnifiable Loss"), as incurred, asserted against or suffered by any Buyer Indemnitee relating to, resulting from or arising out of:

- (i) any breach by Seller of (A) any covenant or agreement of Seller contained in this Agreement (other than covenants or agreements relating to the Power Purchase Agreement) or (B) prior to their expiration in

accordance with Section 11.03, the representations and warranties contained in Article IV;

(ii) the Retained Liabilities (other than Retained Liabilities arising under the Power Purchase Agreement);

(iii) noncompliance by Seller with any bulk sales or transfer laws referred to in Section 6.09;

(iv) any breach by Seller of any Ancillary Agreement (other than breaches of the Power Purchase Agreement); or

(v) if Buyer has failed to receive any of the IRS rulings contemplated to be received by Buyer pursuant to Section 6.07(c) and Seller has elected that the condition set forth in Section 7.02(f) shall not apply, all Taxes, including, for purposes of clause (A), estimated Taxes, (net of any refunds or credits) incurred solely as a result of (A) in the case of the failure to receive an IRS ruling contemplated to be received pursuant to Section 6.07(c) (i) (A), the failure to be entitled to take the positions requested in such ruling on any Tax Return of Buyer or (B) in the case of the failure to receive an IRS ruling contemplated to be received pursuant to Section 6.07(c) (i) (B) or 6.07(c) (i) (C), the failure of the positions requested in such ruling to be sustained following: any proceedings described in Section 9.03(a), the failure of Seller to request a Tax Refund Suit pursuant to Section 9.03(b) or, if Seller does so request, the failure of such Tax Refund Suit, as applicable.

(b) Buyer will indemnify and hold harmless Seller and its Affiliates and their respective directors, officers, trustees, employees, agents and representatives (collectively with Seller and its Affiliates, the "Seller Indemnitees") from and against any Indemnifiable Losses, as incurred, asserted against or suffered by any Seller Indemnatee relating to, resulting from or arising out of:

(i) any breach by Buyer of (A) any covenant or agreement of Buyer contained in this Agreement (other than covenants or agreements relating to the Power Purchase Agreement) or (B) prior to their expiration in accordance with Section 11.03, the representations and warranties contained in Sections 5.01, 5.02, 5.03 and 5.05;

(ii) the Assumed Obligations (other than Assumed

Obligations arising under the Power Purchase Agreement);

(iii) any breach by Buyer of any Ancillary Agreement (other than breaches of the Power Purchase Agreement); or

(iv) if Seller has failed to receive any of the IRS rulings or the New York State Department of Taxation advisory opinion contemplated to be received by Seller pursuant to Section 6.07(c) and Buyer has elected that the condition set forth in Section 7.03(e) shall not apply, all Taxes, including, for purposes of clause (A), estimated Taxes (net of any refunds or credits) incurred by the Decommissioning Funds and Seller solely as a result of (A) in the case of the failure to receive an IRS ruling contemplated to be received pursuant to Section 6.07(c) (i) (A), the failure to be entitled to take the positions requested in such ruling on any Tax Return of the Qualified Decommissioning Fund of Seller or (B) in the case of the failure to receive an IRS ruling or an advisory opinion contemplated to be received pursuant to Section 6.07(c) (i) (B), 6.07(c) (i) (C) or 6.07(c) (ii), the failure of the positions requested in such ruling to be sustained following: any proceedings described in Section 9.03(a), the failure of Buyer to request a Tax Refund Suit pursuant to Section 9.03(b) or, if Buyer does so request, the failure of such Tax Refund Suit, as applicable.

(c) The amount of any Indemnifiable Loss shall be reduced to the extent that the relevant Buyer Indemnitee or Seller Indemnitee (each, an "Indemnitee") receives any insurance proceeds with respect to an Indemnifiable Loss and shall be (i) increased to take account of any Tax Cost incurred by the Indemnitee arising from the receipt of indemnity payments hereunder (grossed up for such increase) and (ii) reduced to take account of any Tax Benefit realized by the Indemnitee arising from the incurrence or payment of any such Indemnifiable Loss. If the amount of any Indemnifiable Loss, at any time subsequent to the making of an indemnity payment in respect thereof, is reduced by recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim or cause of action, recovery, settlement or payment by or against any other person, the amount of such reduction, less any costs, expenses or premiums incurred in connection therewith, will promptly be repaid by the Indemnitee to the Party required to provide indemnification hereunder (the "Indemnifying Party") with respect to such Indemnifiable Loss.

(d) No claim may be made against Seller for indemnification with respect to breaches of representations and warranties pursuant to Section 9.01(a)(i)(B) unless and until the aggregate amount of Indemnifiable Losses incurred by the Buyer Indemnitees thereunder exceeds \$1,000,000 at which point all claims (including those previously barred by such threshold) may be made against Seller. Notwithstanding the foregoing, the maximum amount recoverable for all claims under Section 9.01(a)(i)(B) shall be \$17,000,000 (other than claims based upon fraud). No claim may be made against Buyer for indemnification with respect to breaches of representations and warranties pursuant to Section 9.01(b)(i)(B) unless and until the aggregate amount of Indemnifiable Losses incurred by the Seller Indemnitees thereunder exceeds \$1,000,000 at which point all claims (including those previously barred by such threshold) may be made against Seller. Notwithstanding the foregoing, the maximum amount recoverable for all claims under Section 9.01(b)(i)(B) shall be \$17,000,000 (other than claims based upon fraud).

(e) No Indemnifying Party shall have any liability to any Indemnitee under Section 9.01(a)(i)(B) or 9.01(b)(i)(B), as applicable after Closing, for any breach of a representation or warranty to the extent that such claim for indemnification is based upon facts of which any such Indemnitee had knowledge prior to Closing, unless such Indemnitee provided written notice to such Indemnifying Party of the existence of such facts promptly after receiving knowledge thereof and such Indemnifying Party thereafter failed to cure such breach within a reasonable period of time prior to Closing.

(f) To the fullest extent permitted by Law, neither Party nor any Buyer Indemnitee or any Seller Indemnitee shall be liable to the other Party or any other Buyer Indemnitee or Seller Indemnitee for any claims or causes of action, demands or suits for consequential, incidental, special, exemplary, punitive, indirect or multiple damages connected with or resulting from any breach of this Agreement or the Ancillary Agreements (other than breach of this Article IX), or any actions undertaken in connection with or related hereto or thereto, including any such damages which are based upon breach of contract, tort (including negligence and misrepresentation), breach of warranty, strict liability, statute, operation of law or any other theory of recovery.

(g) The rights and remedies of Seller and Buyer under this Article IX are, solely as between Seller and Buyer, exclusive and in lieu of any other rights and

remedies which Seller and Buyer may have under this Agreement, the Ancillary Agreements (except as expressly provided in any such Ancillary Agreement) or otherwise for monetary relief with respect to (i) any breach of, or failure to perform, any covenant or agreement set forth in this Agreement or the Ancillary Agreements by Seller or Buyer, (ii) any breach of any representation or warranty by Seller or Buyer, (iii) the Assumed Obligations or the Retained Liabilities and (iv) noncompliance by Seller with any bulk sales or transfer laws. Each Party agrees that the previous sentence shall not limit or otherwise affect any non-monetary right or remedy which either Party may have under this Agreement or the Ancillary Agreements or otherwise limit or affect either Party's right to seek equitable relief, including the remedy of specific performance.

(h) Except with respect to breaches of representations and warranties pursuant to Sections 9.01(a)(i)(B) and 9.01(b)(i)(B) which are governed exclusively by Section 9.01(d), Buyer and Seller agree that, notwithstanding Section 9.01(g), each Party shall retain, subject to the other provisions of this Agreement, including Sections 9.01(f) and 11.03, all remedies at law or in equity with respect to (i) fraud or wilful or intentional breaches of this Agreement or the Ancillary Agreements and (ii) gross negligence or wilful or wanton acts or omissions to act of any Indemnitee (or any contractor or subcontractor thereof) on or after Closing.

SECTION 9.02. Third Party Claims Procedures.

(a) If any Indemnitee receives notice of the assertion of any claim or cause of action or of the commencement of any claim, cause of action, or proceeding made or brought by any person who is not a Party or an Affiliate of a Party (a "Third Party Claim") with respect to which indemnification is to be sought from an Indemnifying Party, the Indemnitee will give such Indemnifying Party reasonably prompt written notice thereof, but in any event not later than 20 Business Days after the Indemnitee's receipt of notice of such Third Party Claim; provided, however, that a failure to give timely notice will not affect the rights or obligations of any Indemnitee except if, and only to the extent that, as a result of such failure, the Indemnifying Party was actually prejudiced. Such notice shall describe the nature of the Third Party Claim in reasonable detail and will indicate the estimated amount, if practicable, of the Indemnifiable Loss that has been or may be sustained by the Indemnitee.

(b) If a Third Party Claim is made against an Indemnitee, the Indemnifying Party will be entitled to

participate in the defense thereof and, if it so chooses, to assume the defense thereof with counsel selected by the Indemnifying Party; provided, however, that such counsel is not reasonably objected to by the Indemnitee; and provided further that the Indemnifying Party first admits in writing its liability to the Indemnitee with respect to all material elements of such claim. Should the Indemnifying Party so elect to assume the defense of a Third Party Claim, the Indemnifying Party will not be liable to the Indemnitee for any legal expenses subsequently incurred by the Indemnitee in connection with the defense thereof. If the Indemnifying Party so elects to assume the defense of a Third Party Claim, the Indemnitee will (i) cooperate in all reasonable respects with the Indemnifying Party in connection with such defense, (ii) not admit any liability with respect to, or settle, compromise or discharge, any Third Party Claim without the Indemnifying Party's prior written consent and (iii) agree to any settlement, compromise or discharge of a Third Party Claim which the Indemnifying Party may recommend and which by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such Third Party Claim and releases the Indemnitee completely in connection with such Third Party Claim. In the event the Indemnifying Party shall so assume the defense of any Third Party Claim, the Indemnitee shall be entitled to participate in (but not control) such defense with its own counsel at its own expense. If the Indemnifying Party does not assume the defense of any such Third Party Claim, the Indemnitee may defend the same in such manner as it may deem appropriate, including settling such claim or litigation after giving notice to the Indemnifying Party of the terms of the proposed settlement and the Indemnifying Party will promptly reimburse the Indemnitee upon written request. Anything contained in this Agreement to the contrary notwithstanding, no Indemnifying Party shall be entitled to assume the defense of any Third Party Claim if such Third Party Claim seeks an order, injunction or other equitable relief or relief for other than monetary damages against the Indemnitee which, if successful, would materially adversely affect the business of the Indemnitee; provided, however, that such Indemnifying Party shall continue to be obligated to such Indemnitee pursuant to Section 9.01(a) or (b), as the case may be, for all Indemnifiable Losses relating to, resulting from or arising out of such Third Party Claim.

SECTION 9.03. Procedures Relating to Tax Indemnity. (a) If (i) Buyer (Seller) has failed to receive any of the IRS rulings (or the advisory opinion) contemplated to be received by Buyer (Seller) pursuant to Section 6.07(c) (other than the rulings contemplated to be received pursuant to Section 6.07(c)(i)(A)) and Seller

(Buyer) has elected that the condition set forth in Section 7.02(f) (Section 7.03(e)) shall not apply, (ii) Buyer (Seller) has filed its Tax Returns taking positions as though Buyer (Seller) actually received such IRS rulings (or the advisory opinion) and (iii) a claim shall be made by any taxing authority which, if successful, might result in an indemnity payment pursuant to Section 9.01(a)(v)(B) (Section 9.01(b)(iv)(B)), the Indemnatee shall promptly notify the Indemnifying Party in writing of such claim (a "Tax Claim") and shall keep the Indemnifying Party reasonably informed of all proceedings taken pursuant to this Section 9.03(a) in connection with such Tax Claim. At the reasonable request of the Indemnifying Party, the Indemnatee shall contest such Tax Claim; provided, however, that the Indemnatee shall control all proceedings taken in connection with contesting such Tax Claim; and provided further that the Indemnatee shall not settle such Tax Claim without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld.

(b) If (i) Buyer (Seller) has failed to receive any of the IRS rulings (or the advisory opinion) contemplated to be received by Buyer (Seller) pursuant to Section 6.07(c) (other than the rulings contemplated to be received pursuant to Section 6.07(c)(i)(A)) and Seller (Buyer) has elected that the condition set forth in Section 7.02(f) (Section 7.03(e)) shall not apply and (ii) Buyer (Seller) has filed its Tax Returns taking positions different from those Buyer (Seller) requested in such IRS rulings (or the advisory opinion), the Indemnatee shall, at the reasonable request of the Indemnifying Party, sue for a refund (a "Tax Refund Suit") of any Taxes incurred solely as a result of the positions taken by the Indemnatee on its Tax Returns being different from the positions requested in such IRS rulings; provided, however, that the Indemnatee shall control all proceedings taken in connection with such Tax Refund Suit; and provided, further, that the Indemnatee shall not settle such Tax Refund Suit without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld.

(c) If an indemnity payment has been made pursuant to Section 9.01(a)(v)(A) or 9.01(b)(iv)(A), the Indemnatee shall, at the request and sole expense of the Indemnifying Party, sue for a refund of the Taxes that gave rise to such indemnity payment (a "Tax Contest"). The Indemnifying Party shall control all proceedings taken in connection with such Tax Contest; provided, however, that the Indemnifying Party shall keep the Indemnatee reasonably informed of all proceedings taken in connection with such Tax Contest. The Indemnatee shall cooperate with the Indemnifying Party (at the Indemnifying Party's expense) in such Tax Contest, which

cooperation shall include, without limitation, the retention and (upon the Indemnifying Party's request) the provision to the Indemnifying Party of records and information which are reasonably relevant to such Tax Contest, and making employees available on a mutually convenient basis to provide additional information or explanation of any material provided hereunder or to testify at proceedings relating to such Tax Contest.

ARTICLE X

Termination

SECTION 10.01. Termination. (a) This Agreement may be terminated at any time prior to Closing by an instrument in writing signed on behalf of each of the Parties.

(b) This Agreement may be terminated by Seller or Buyer if Closing shall not have occurred on or before the date that is 15 months from the date of this Agreement (the "Termination Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.01(b) shall not be available to any Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of Closing to occur on or before such date.

(c) This Agreement may be terminated by either Seller or Buyer if any Restraint having any of the effects set forth in Section 7.01(b) shall be in effect and shall have become final and nonappealable; provided, however, that the Party seeking to terminate this Agreement pursuant to this Section 10.01(c) shall have used its reasonable best efforts to prevent the entry of and to remove such Restraint.

(d) This Agreement may be terminated by Buyer prior to Closing if there has been a material violation or breach by Seller of any covenant, representation or warranty of Seller contained in this Agreement which has rendered the satisfaction of any conditions to the obligations of Buyer under this Agreement impossible or has resulted in a Material Adverse Effect, and such violation or breach has not been cured by Seller within 30 days after receipt by Seller of written notice from Buyer specifying in reasonable detail such violation or breach; provided, however, that Buyer shall not have the right to terminate pursuant to this Section 10.01(d) if (i) such violation or breach is not reasonably capable of being cured by Seller within such 30-

day period but is reasonably capable of being cured by Seller within a reasonable additional period and Seller, within such 30-day period, shall have commenced good faith efforts to cure such violation or breach and shall have diligently continued such good faith efforts during such reasonable additional period, which additional period shall in no event extend beyond the Termination Date, or (ii) such violation or breach shall have been waived in writing by Buyer.

(e) This Agreement may be terminated by Seller prior to Closing if there has been a material violation or breach by Buyer of any covenant, representation or warranty of Buyer contained in this Agreement which has rendered the satisfaction of any conditions to the obligations of Seller under this Agreement impossible and such violation or breach has not been cured by Buyer within 30 days after receipt by Buyer of written notice from Seller specifying in reasonable detail such violation or breach; provided, however, that Seller shall not have the right to terminate pursuant to this Section 10.01(e) if (i) such violation or breach is not reasonably capable of being cured by Buyer within such 30-day period but is reasonably capable of being cured by Buyer within a reasonable additional period and Buyer, within such 30-day period, shall have commenced good faith efforts to cure such violation or breach and shall have diligently continued such good faith efforts during such reasonable additional period, which additional period shall in no event extend beyond the Termination Date, or (ii) such violation or breach shall have been waived by Seller.

(f) This Agreement may be terminated by Buyer by giving written notice to Seller any time prior to Closing if any Buyer Required Regulatory Approvals or Seller Required Regulatory Approvals, the receipt of which is a condition to the obligation of Buyer to consummate Closing as set forth in Section 7.01(a), shall have been finally denied (and a petition for rehearing or refiling of an application initially denied without prejudice shall also have been denied) or, in the case of Buyer Required Regulatory Approvals, a Final Order shall have been granted but such Final Order is not reasonably acceptable to Buyer in accordance with Section 7.01(a).

(g) This Agreement may be terminated by Seller by giving written notice to Buyer any time prior to Closing if any Seller Required Regulatory Approvals or Buyer Required Regulatory Approvals, the receipt of which is a condition to the obligation of Seller to consummate Closing as set forth in Section 7.01(a), shall have been finally denied (and a petition for rehearing or refiling of an application

initially denied without prejudice shall also have been denied) or, in the case of Seller Required Regulatory Approvals, a Final Order shall have been granted but such Final Order is not reasonably acceptable to Seller in accordance with Section 7.01(a).

ARTICLE XI

Miscellaneous Provisions

SECTION 11.01. Expenses. Except to the extent specifically provided herein, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such costs and expenses, whether or not the transactions contemplated hereby are consummated.

SECTION 11.02. Amendment and Modification; Extension; Waiver. This Agreement may be amended, modified or supplemented only by an instrument in writing signed on behalf of each of the Parties. Any agreement on the part of a Party to any extension or waiver in respect of this Agreement shall be valid only if set forth in an instrument in writing signed on behalf of such Party. The failure of a Party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

SECTION 11.03. Survival of Representations or Warranties. The representations and warranties contained in Article IV (other than the first sentence of Section 4.11) and Article V (other than Section 5.04) survive for 6 months from the Closing Date and each and every other representation and warranty contained in this Agreement shall expire with, and be terminated and extinguished by Closing and no such representation or warranty shall survive Closing. From and after Closing, none of Seller, Buyer or any officer, director, trustee or Affiliate of any of them shall have any liability whatsoever with respect to any such representation or warranty that does not survive Closing. The expiration of the representations and warranties contained in Article IV (other than the first sentence of Section 4.11) and Article V (other than Section 5.04) shall not affect the Parties' obligations under Article IX if the Indemnatee provided the Indemnifying Party with proper notice of the claim or event for which indemnification is sought prior to such expiration.

SECTION 11.04. Notices. All notices and other communications hereunder shall be in writing and shall be

deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

if to Seller, to:

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, NY 10003
Telecopy No.: (212) 677-0601
Attention: General Counsel

with a copy on or prior to the Closing Date to:

Cravath, Swaine & Moore
825 Eighth Avenue
New York, NY 10019
Telecopy No.: (212) 474-3700
Attention: George W. Bilicic, Jr., Esq.

if to Buyer, to:

Entergy Nuclear Indian Point 2, LLC
440 Hamilton Avenue
White Plains, NY 10601
Telecopy No.: (914) 272-3406
Attention: Chief Operating Officer

with a copy on or prior to the Closing Date to:

c/o Entergy Nuclear, Inc.
P.O. Box 31995
Jackson, MS 39286-1995
Telecopy No.: (601) 368-5694
Attention: Assistant Secretary

SECTION 11.05. Assignment; No Third Party Beneficiaries. (a) This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any Party, including by operation of law, without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed. Notwithstanding the foregoing but subject to all legal requirements, (i) Seller may assign or pledge its rights (A) to an Affiliate of Seller or a third party in connection with the transfer of

the Transmission System to such Affiliate or third party or (B) to a lending institution or trustee in connection with a pledge or granting of a security interest in all or any part of the Transmission System and/or this Agreement and (ii) Buyer may assign or pledge its rights (A) to an Affiliate of Buyer or (B) to a lending institution or trustee in connection with a pledge or granting of a security interest in the Auctioned Assets and/or this Agreement; provided, however, that (i) with respect to an assignment or transfer of rights or obligations by Seller, no such assignment or transfer shall relieve Seller from the full liabilities and the full financial responsibility, as provided for under this Agreement, unless and until the transferee or assignee shall agree in writing to assume such obligations and duties and Buyer has consented in writing to such assumption, and (ii) with respect to an assignment or transfer of rights or obligations by Buyer, no such assignment or transfer (A) may be consummated unless the assignee or transferee expressly agrees in writing and in a form satisfactory to Seller to be jointly and severally liable with Buyer for all of the liabilities and obligations of Buyer under this Agreement and (B) shall relieve Buyer from the full liabilities and the full financial responsibility as provided for under this Agreement; provided, that, in the event of a subsequent transfer pursuant to this clause (ii), if such subsequent transferee shall agree to be jointly and severally liable with Buyer for all of the liabilities and obligations of Buyer under this Agreement, then the prior transferee shall be relieved of its liability upon such transfer. Any assignment in contravention of this Section 11.05 shall be null and void and without legal effect.

(b) Nothing in this Agreement is intended to confer upon any other person except the Parties any rights or remedies hereunder or shall create any third party beneficiary rights in any person, including, with respect to continued or resumed employment, any employee or former employee of Seller (including any beneficiary or dependent thereof). No provision of this Agreement shall create any rights in any such persons in respect of any benefits that may be provided, directly or indirectly, under any employee benefit plan or arrangement.

(c) Buyer may request (i) upon not less than 30 days' prior written notice to Seller, that Seller transfer the Buyer Real Estate and personal property constituting the Toddville Training Center and (ii) upon not less than 90 days' prior written notice to Seller, that Seller assign the lease and personal property relating to 1 Park Place, Peekskill, New York set forth in Schedule 4.06 to an Affiliate of Buyer at Closing. Seller shall not

unreasonably deny such requests; provided, that (i) no such transfer shall be made unless the transferee expressly agrees in writing and in a form satisfactory to Seller to be jointly and severally liable with Buyer for all of the liabilities and obligations arising from or relating primarily to the use, ownership, lease, operation, maintenance or control of such Auctioned Assets and (ii) no such transfer shall relieve Buyer from any liabilities or obligations provided for under this Agreement.

SECTION 11.06. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

SECTION 11.07. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 11.08. Interpretation. When a reference is made in this Agreement to an Article, Section, Schedule or Exhibit, such reference shall be to an Article or Section of, or Schedule or Exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation" or equivalent words. The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in this Agreement shall have the defined meanings when used in the Ancillary Agreements and any certificate or other document made or delivered pursuant hereto or thereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument or Law defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or Law as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of Laws) by succession of comparable Laws and references to all attachments thereto and instruments incorporated therein. References to a person are also to

its permitted successors and assigns.

SECTION 11.09. Jurisdiction and Enforcement.

(a) Each of the Parties irrevocably submits to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, New York County and (ii) the United States District Court for the Southern District of New York, for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of the Parties agrees to commence any action, suit or proceeding relating hereto either in the United States District Court for the Southern District of New York or, if such suit, action or proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, New York County. Each of the Parties further agrees that service of process, summons, notice or document by hand delivery or U.S. registered mail at the address specified for such Party in Section 11.04 (or such other address specified by such Party from time to time pursuant to Section 11.04) shall be effective service of process for any action, suit or proceeding brought against such Party in any such court. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement or any Ancillary Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or any Ancillary Agreement and to enforce specifically the terms and provisions of this Agreement or any Ancillary Agreement, this being in addition to any other remedy to which they are entitled at law or in equity.

SECTION 11.10. Entire Agreement. This Agreement, the Confidentiality Agreement and the Ancillary Agreements including the Exhibits, Schedules, documents, certificates and instruments referred to herein or therein and other contracts, agreements and instruments contemplated hereby or

thereby, embody the entire agreement and understanding of the Parties in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein or therein. This Agreement and the Ancillary Agreements supersede all prior agreements and understandings between the Parties with respect to the transactions contemplated by this Agreement other than the Confidentiality Agreement.

SECTION 11.11. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable Law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

SECTION 11.12. Conflicts. Except as expressly otherwise provided herein or therein, in the event of any conflict or inconsistency between the terms of this Agreement and the terms of any Ancillary Agreement, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.,

by

/s/ Kevin Burke

Name: Kevin Burke

Title: President

ENTERGY NUCLEAR INDIAN
POINT 2, LLC,

by

/s/ Michael R. Kansler

Name: Michael R. Kansler

Title: Senior Vice
President and
Chief Operating
Officer

PROVISIONS OF ARTICLE VIII
ACCEPTED AND AGREED TO BY
COUNTERSIGNING BELOW:

ENTERGY NUCLEAR OPERATIONS, INC.,

by

/s/ Michael R. Kansler

Name: Michael R. Kansler

Title: Senior Vice President
and Chief Operating Officer

IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

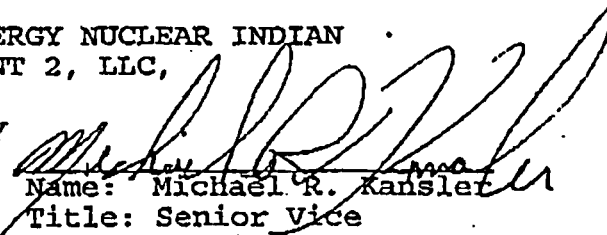
CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.,

by

Name:
Title:

ENTERGY NUCLEAR INDIAN
POINT 2, LLC,

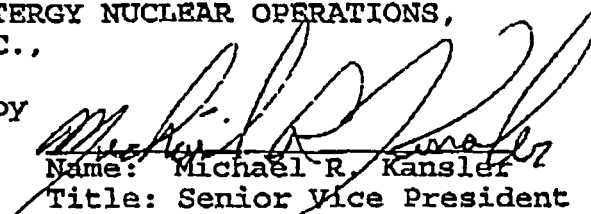
by


Name: Michael R. Kansler
Title: Senior Vice
President and
Chief Operating
Officer

PROVISIONS OF ARTICLE VIII
ACCEPTED AND AGREED TO BY
COUNTERSIGNING BELOW:

ENTERGY NUCLEAR OPERATIONS,
INC.,

by

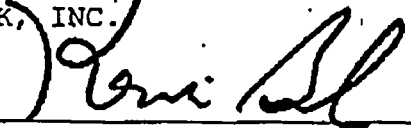

Name: Michael R. Kansler
Title: Senior Vice President
and Chief Operating Officer

IN WITNESS WHEREOF, Seller and Buyer have caused

this Agreement to be signed by their respective duly
authorized officers as of the date first above written.

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

by


Name: Kevin Burke
Title: President

ENTERGY NUCLEAR INDIAN
POINT 2, LLC,

by

Name:
Title:

PROVISIONS OF ARTICLE VIII
ACCEPTED AND AGREED TO BY
COUNTERSIGNING BELOW:

ENTERGY NUCLEAR OPERATIONS,
INC.,

by

Name:
Title:

EXHIBITS

TO

GENERATING PLANT
AND GAS TURBINE
ASSET PURCHASE AND SALE AGREEMENT

FOR

INDIAN POINT GENERATING STATION UNITS 1 AND 2
AND GAS TURBINE UNITS 1, 2 AND 3

AND

TODDVILLE TRAINING CENTER.

LOCATED AT VILLAGE OF BUCHANAN, WESTCHESTER COUNTY, NEW YORK

FORM OF DEED OF CONVEYANCE FOR WESTCHESTER COUNTY
[LAND AND IMPROVEMENTS]

THIS INDENTURE, made the • day of •, two thousand

BETWEEN

Consolidated Edison Company of New York, Inc., a New York corporation, having a principal place of business at No. 4 Irving Place, New York, NY 10003

party of the first part, and

•, a •, having a principal place of business at •

party of the second part,

WITNESSETH, that the party of the first part, in consideration of ten dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL those certain plots, pieces or parcels of land and land under water, with the buildings and improvements thereon erected, situate, lying and being in the Village of Buchanan and/or the Town of Cortlandt in the County of Westchester and State of New York and more particularly described on Schedule A attached hereto and made a part hereof ("said premises").

Said premises are subject to all covenants, conditions, easements, agreements and restrictions of record including, but not limited to, provisions of letters patent and water grants, zoning and building regulations, and any state of facts that an accurate survey and personal inspection may reveal.

TOGETHER with, and SUBJECT to, all covenants, conditions, easements, agreements, restrictions and other interests granted, reserved and/or imposed in that certain Indenture made as of the 30th day of December, 1975 by Consolidated Edison Company of New York Inc. to Power Authority of the State of New York (the "PASNY Deed") recorded in Liber 7306, Page 736 in the Westchester County Clerk's Office (the "Clerk's Office") on December 31, 1975

and/or shown on Map Numbers 18702 and 18703 on file in the Clerk's Office (the "PASNY Maps"), including without limitation, the pre-emptive rights to purchase certain undivided or tenancy in common interests and the waiver of partition or sale for division with respect to such undivided interests set forth on pages 28 and 29 of the PASNY Deed, but EXCLUDING the 345KV transmission line easement described in paragraph 1 on page 7 of the PASNY Deed and delineated and designated "CE-4" on the PASNY Maps,

TOGETHER with, and SUBJECT to, all of the grants, rights, reservations and obligations more particularly described in the Declaration of Easements Agreement dated of even date herewith between the party of the first part and the party of the second part, which shall be recorded herewith and being and intended to be part of this conveyance of said premises, and in particular to the retention by the party of the first part of title to the "Seller Facilities", as such term is defined therein,

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

This conveyance is made in the ordinary course of business and does not constitute all of the assets of the party of the first part.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements and will apply the same first to the payment of the cost of the improvements before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

(Corporate Seal)

ATTEST: _____
Secretary

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

•

•

(Corporate Seal)

ATTEST: _____
Secretary

•

•

SCHEDULE A

Description of Land

[From Schedule 2.02(a)(i)(A) and
Schedule 2.02(a)(i)(C)]

FORM OF DEED OF CONVEYANCE FOR WESTCHESTER COUNTY
[IMPROVEMENTS ON GT SITE]

THIS INDENTURE, made the • day of •, two thousand

BETWEEN

Consolidated Edison Company of New York, Inc., a New
York corporation, having a principal place of business at
No. 4 Irving Place, New York, NY 10003

party of the first part, and

•, a •, having a principal place of business at •

party of the second part,

WITNESSETH, that the party of the first part, in
consideration of ten dollars and other valuable
consideration paid by the party of the second part, does
hereby grant and release unto the party of the second part,
the heirs or successors and assigns of the party of the
second part forever,

ALL buildings and improvements ("said improvements") erected
on those certain plots, pieces or parcels of land situate,
lying and being in the Village of Buchanan, Town of
Cortlandt, County of Westchester and State of New York and
more particularly described on Schedule A attached hereto
and made a part hereof, EXCEPTING THEREFROM the land on
which said improvements stand.

Said improvements are subject to all covenants,
conditions, easements, agreements and restrictions of record
including, but not limited to, provisions of letters patent
and water grants, zoning and building regulations, and any
state of facts that an accurate survey and personal
inspection may reveal.

TOGETHER with, and SUBJECT to, all of the grants,
rights, reservations and obligations more particularly
described in the Declarations of Easements Agreement and the
GT Site Ground Lease, both dated of even date herewith,
between the party of the first part and the party of the
second part, both of which shall be recorded herewith, and
in particular to the retention by the party of the first
part of title to the "Seller Facilities", as such term is
defined in the Declaration of Easements Agreement

TOGETHER with all the estate and rights of the party of the first part in and to said improvements; TO HAVE AND TO HOLD the improvements herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

This conveyance is made in the ordinary course of business and does not constitute all of the assets of the party of the first part.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements and will apply the same first to the payment of the cost of the improvements before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

(Corporate Seal)

ATTEST: _____
Secretary

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

(Corporate Seal)

ATTEST: _____
Secretary

Description of Land

[From Schedule 2.02(a)(i)(B)]

FORM OF GT SITE GROUND LEASE

[provided separately]

FORM OF DECLARATION OF EASEMENTS AGREEMENT

[provided separately]

CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a transferee of a U.S. real property interest must withhold Tax if the transferor is a foreign person. To inform Entergy Nuclear Indian Point 2, LLC ("Buyer"), that a withholding of Tax is not required upon the disposition of a U.S. real property interest by Consolidated Edison Company of New York, Inc., a New York corporation ("Seller"), the undersigned hereby certifies the following on behalf of Seller:

1. Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Code and Income Tax Regulations);

2. Seller's employer identification number is 13-5009340;

3. Seller's office address is 4 Irving Place, New York, NY 10003.

Seller and the undersigned understand that this certificate may be disclosed to the Internal Revenue Service by Buyer and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Seller.

Date: [], 2001

By: _____

Name:

Title:

FORM OF OPINION OF GENERAL COUNSEL OF SELLER

[], 2001

Entergy Nuclear Indian Point 2, LLC
440 Hamilton Avenue
White Plains, NY 10601

Consolidated Edison Company of New York, Inc.
Generating Plant and Gas Turbine
Asset Purchase and Sale Agreement

Ladies and Gentlemen:

I am General Counsel of Consolidated Edison Company of New York, Inc., a New York corporation ("Seller"), and have acted for Seller in connection with the Generating Plant and Gas Turbine Asset Purchase and Sale Agreement (the "Asset Purchase and Sale Agreement") dated as of November 9, 2000, between Seller and Entergy Nuclear Indian Point 2, LLC, a Delaware limited liability company ("Buyer") and the Ancillary Agreements (collectively, the "Agreements") and the transactions contemplated thereby. Capitalized terms used but not defined herein have the meanings assigned to them in the Asset Purchase and Sale Agreement.

In that connection, I have examined originals, or copies certified or otherwise identified to my satisfaction, of such documents, corporate records and other instruments as I have deemed necessary or appropriate for the purposes of this opinion, including: (a) the Agreements, (b) the Certificate of Incorporation of Seller, (c) the By-laws of Seller and (d) resolutions of the Board of Trustees of Seller.

In rendering my opinion, I have assumed the due authorization, execution and delivery of each Agreement by each party thereto other than Seller.

Based upon the foregoing and subject to the qualifications hereinafter set forth, I am of the opinion as follows:

1. Based solely on a certificate from the Secretary of State of the State of New York, Seller is a corporation validly existing and in good standing under the laws of the State of New York. Seller has all necessary corporate power and authority to execute and deliver each Agreement and to consummate the transactions contemplated thereby; and the execution and delivery by Seller of each Agreement and the

consummation by Seller of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action on the part of Seller.

2. Each of Seller's Qualified Decommissioning Fund and Nonqualified Decommissioning Fund is a trust validly existing and in good standing under the laws of the State of New York.

3. Each Agreement has been duly executed and delivered by Seller, and assuming that such Agreement constitutes a valid and binding obligation of each other party thereto, such Agreement constitutes a valid and binding obligation of Seller, enforceable against Seller in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws affecting creditors' rights generally from time to time in effect and to general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing, regardless of whether considered in a proceeding in equity or at law). With respect to the foregoing opinion, (i) insofar as provisions contained in the Agreements provide for indemnification, the enforceability thereof may be limited by public policy considerations and (ii) the availability of a decree for specific performance or an injunction is subject to the discretion of the court requested to issue any such decree or injunction.

4. Subject to obtaining the Seller Required Regulatory Approvals and the Buyer Required Regulatory Approvals, neither the execution and delivery of the Agreements by Seller nor the consummation of the transaction contemplated thereby, including the sale by Seller of the Auctioned Assets pursuant to the Asset Purchase and Sale Agreement will (i) conflict with or result in any breach of any provision of the Certificate of Incorporation or By-laws of Seller, (ii) except as set forth in Schedule 4.03(a) to the Asset Purchase and Sale Agreement, result in a default (or give rise to any right of termination, cancelation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Seller is a party or by which Seller, or any of the Auctioned Assets may be bound or (iii) violate any Law applicable to Seller, or the Auctioned Assets, except in the case of clauses (ii) and (iii) for such failures to obtain a necessary consent, defaults (or rights) and violations which would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

5. Except for the Seller Required Regulatory Approvals, no declaration, filing or registration with, or notice to, or authorization, consent or approval of any United States federal or New York State Governmental Authority is necessary for the consummation by Seller of the transactions contemplated by the Agreements, other than (A) such declarations, filings, registrations, notices, authorizations, consents or approvals which, if not obtained or made, would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect, (B) any certificate of occupancy, consent or similar approval to authorize the change in occupancy of the Buyer Real Estate contemplated by the Asset Purchase and Sale Agreement and required pursuant to the Code of the Village of Buchanan, including specifically Section 211.49 thereof and (C) any consent of the Commissioner of General Services of the State of New York required for the assignment from Seller to Buyer of the right to install and maintain a fish return pipeline in an area in the Hudson River approximately 30 feet wide and 330 feet long.

The opinions expressed herein are subject to the qualification that I express no opinion regarding the applicability of, or compliance with, any bulk sales, bulk transfer or similar laws in connection with the transfer of the Auctioned Assets pursuant to the Asset Purchase and Sale Agreement. I express no opinion herein as to (i) the provisions of the Agreements insofar as such provisions relate to the subject matter jurisdiction of the United States District Court for the Southern District of New York to adjudicate any controversy related thereto and (ii) the waiver of an inconvenient forum set forth in the provisions of the Agreements.

I am admitted to practice in the State of New York, and I express no opinion as to matters governed by any laws other than the laws of the State of New York and the Federal laws of the United States of America.

I am furnishing this opinion to you pursuant to Section 7.02(e) of the Asset Purchase and Sale Agreement, solely for your benefit in connection with the transactions contemplated by the Asset Purchase and Sale Agreement. This opinion may not be relied upon by any other person or for any other purpose or used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,

FORM OF AFFIDAVIT

STATE OF NEW YORK,)

) ss.

COUNTY OF NEW YORK,)

The undersigned, on behalf of Consolidated Edison Company of New York, Inc., a New York corporation (the "Owner"), in consideration of [] (the "Title Company") issuing its Owner's Policy pursuant to its Certificate of Title No. [] (the "Commitment"), and being first duly sworn on oath, deposes and states that:

1. Owner is the owner of the real estate described in Schedule A to the Commitment (the "Premises") but does not warrant the accuracy of such description or the acreage thereof.

2. All New York State Franchise Taxes, Gross Receipts Taxes and Excise Taxes imposed on Owner under Articles 9, and 9(A) of the Tax Law and which are currently due have been paid in full.

3. Except for and as provided in that certain Generating Plant and Gas Turbine Asset Purchase and Sale Agreement dated November 9, 2000 (the "APSA") between Owner and Entergy Nuclear Indian Point 2, LLC, a Delaware limited liability company (the "Purchaser"), the Owner is not a party to any outstanding contracts of sale, deeds, mortgages, easements or other conveyances affecting the Premises which are not disclosed by the public records as of [] or described in the Commitment and will not execute any such conveyances after the date hereof except in accordance with the terms of the APSA. [Note: THE MUTUAL WAIVER OF THE POWER AUTHORITY OF THE STATE OF NEW YORK ("PASNY") /OWNER ROFR, THE WATER AND SEWER LINE EASEMENTS TO BE GRANTED BY OWNER TO PASNY, THE WATER SUPPLY AND ACCESS ROADS EASEMENT BETWEEN PASNY AND OWNER AND THE DECLARATION OF EASEMENTS TO BE EXECUTED PURSUANT TO THE APSA ARE DESCRIBED IN THE COMMITMENT PROVIDED TO PURCHASER BY OWNER AND MUST BE RECORDED/DESCRIBED IN ANY FUTURE COMMITMENT.]

4. There are no tenants in the Premises except [].

Affiant makes this Affidavit solely in his capacity as [TITLE] of the Owner, and recourse (if any) hereunder shall be solely against the Owner and not against Affiant personally.

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.,

by _____
Name:
Title:

Sworn to before me this
_____ day of [].

Notary Public

Delaware. Buyer has all necessary limited liability company power and authority to execute and deliver each Agreement and to consummate the transactions contemplated thereby; and the execution and delivery by Buyer of each Agreement and the consummation by Buyer of the transactions contemplated thereby have been duly and validly authorized by all necessary limited liability company action on the part of Buyer.

2. Each Agreement has been duly executed and delivered by Buyer, and assuming that such Agreement constitutes a valid and binding obligation of each other party thereto, such Agreement constitutes a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws affecting creditors' rights generally from time to time in effect and to general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing, regardless of whether considered in a proceeding in equity or at law). With respect to the foregoing opinion, (i) insofar as provisions contained in the Agreements provide for indemnification, the enforceability thereof may be limited by public policy considerations and (ii) the availability of a decree for specific performance or an injunction is subject to the discretion of the court requested to issue any such decree or injunction.

3. Subject to obtaining the Buyer Required Regulatory Approvals and the Seller Required Regulatory Approvals, neither the execution and delivery of the Agreements nor the consummation of the transactions contemplated thereby, including the purchase by Buyer of the Auctioned Assets pursuant to the Asset Purchase and Sale Agreement will (i) conflict with or result in any breach of any provision of the Certificate of Formation or Operating Agreement (or other similar governing documents) of Buyer, (ii) result in a default (or give rise to any right of termination, cancelation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Buyer or any of its subsidiaries is a party or by which any of their respective assets may be bound or (iii) violate any Law applicable to Buyer, or any of its assets, except in the case of clauses (ii) and (iii) for such failures to obtain a necessary consent, defaults (or rights) and violations which would not, individually or in the aggregate, be reasonably expected to have a Buyer Material Adverse Effect.

4. Except for the Buyer Required Regulatory Approvals, no declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by Buyer of the transactions contemplated by the Agreements, other than (A) such declarations, filings, registrations, notices, authorizations, consents or approvals which, if not obtained or made, would not, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect.

We express no opinion herein as to (i) the provisions of the Agreements insofar as such provisions relate to the subject matter jurisdiction of the United States District Court for the Southern District of New York to adjudicate any controversy related thereto and (ii) the waiver of an inconvenient forum set forth in the provisions of the Agreements.

We are furnishing this opinion to you pursuant to Section 7.03(d) of the Asset Purchase and Sale Agreement, solely for your benefit in connection with the transactions contemplated by the Asset Purchase and Sale Agreement. This opinion may not be relied upon by any other person or for any other purpose or used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,

EXHIBIT F

GUARANTEE AGREEMENT dated as of

[], 2001, between ENTERGY INTERNATIONAL HOLDINGS LTD. LLC, a Delaware limited liability company ("Guarantor"), and CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a New York corporation (the "Seller" and, collectively with Guarantor, the "Parties").

WHEREAS Buyer (as defined below) and Seller have entered into a Generating Plant and Gas Turbine Asset Purchase and Sale Agreement dated as of November 9, 2000 (the "Sale Agreement"); pursuant to which Buyer has agreed to purchase and Seller has agreed to sell certain nuclear generating assets, as more particularly set forth therein, and each of Buyer and Seller undertook certain duties, responsibilities and obligations as set forth in the Sale Agreement and the Ancillary Agreements (as defined in the Sale Agreement);

WHEREAS Guarantor has agreed, as limited herein, to guarantee payment and performance of Buyer's covenants, agreements, obligations, liabilities, representations and warranties under the Sale Agreement and under each Ancillary Agreement; and

WHEREAS Guarantor will benefit from the transactions contemplated by the Sale Agreement.

NOW, THEREFORE, the Parties agree as follows:

SECTION 1. Definitions. Capitalized terms used herein shall have the meanings assigned to them herein or, if not defined herein, then such terms shall have the meanings assigned to them in the Sale Agreement. For the purpose of this Agreement, "Buyer" shall mean Entergy Nuclear Indian Point 2, LLC, a Delaware limited liability company, and any successors and assigns under the Sale Agreement or any Ancillary Agreement.

SECTION 2. Guarantee. Guarantor absolutely, irrevocably and unconditionally guarantees, as limited herein, as a primary obligor and not merely as a surety, (a) the due and punctual payment of (i) each payment required to be made by Buyer under the Sale Agreement or any Ancillary Agreement, when and as due, including payments in respect of reimbursement of disbursements and interest thereon and (ii) all other monetary obligations, including indemnities, fees, costs and expenses, whether primary, secondary, direct, contingent, fixed or otherwise (including

monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of Buyer under the Sale Agreement or any Ancillary Agreement (all such obligations referred to in the clause (a) being collectively referred to as the "Monetary Obligations") and (b) the due and punctual performance and observance of, and compliance with, all covenants, agreements, obligations, liabilities, representations and warranties of Buyer under or pursuant to the Sale Agreement or any Ancillary Agreement (all such obligations referred to in the preceding clauses (a) and (b) being collectively referred to as the "Obligations"). Guarantor further agrees that the Obligations may be amended or modified in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any amendment or modification of any Obligation. Notwithstanding anything to the contrary contained herein, Guarantor shall not be required to pay or otherwise make out-of-pocket expenditures in excess of \$10,000,000 in the aggregate hereunder in respect of the Obligations.

SECTION 3. Obligations Not Waived. To the fullest extent permitted by applicable Law, Guarantor waives presentment to, demand of payment from and protest to Buyer of any of the Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment. To the fullest extent permitted by applicable Law, the obligations of Guarantor hereunder shall not be affected by (a) the failure of Seller to assert any claim or cause of action or demand or to enforce or exercise any right or remedy against Buyer in respect of the Obligations or otherwise under the provisions of the Sale Agreement and any Ancillary Agreement or otherwise or, in each case, any delay in connection therewith, or (b) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, this Agreement, the Sale Agreement, any Ancillary Agreement or any other agreement or instrument.

SECTION 4. Continuing Guarantee of Payment and Performance. Guarantor further agrees that its guarantee constitutes a continuing guarantee of payment and performance when due and not of collection, and waives any right to require that any resort be had by Seller to any security.

SECTION 5. No Discharge or Diminishment of Guarantee. (a) Subject to the last sentence of Section 2, the obligations of Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination, or

be subject to any defense or setoff (except as provided in clause (c) below), counterclaim, recoupment or, subject to Section 10, termination whatsoever, or otherwise be affected, for any reason (other than (1) the performance in full of all Obligations, including the indefeasible payment in full of all Monetary Obligations, and the termination and satisfaction of all the Obligations or (2) the failure of Seller to perform an obligation of Seller under the Sale Agreement that affects Buyer's performance of its obligations under the Sale Agreement), including:

(i) any claim of waiver, release, surrender, alteration or compromise of any of the Obligations;

(ii) the invalidity, illegality or unenforceability of the Obligations;

(iii) the occurrence or continuance of any event of bankruptcy, reorganization, insolvency, receivership or other similar proceeding with respect to Buyer or any other person (for purposes hereof, "person" means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization or Governmental Authority), or the dissolution, liquidation or winding up of Buyer or any other person;

(iv) any permitted assignment or other transfer of this Agreement by Seller or any permitted assignment or other transfer of the Sale Agreement or any Ancillary Agreement or any other agreement or instrument in whole or in part;

(v) any sale, transfer or other disposition by Guarantor of any direct or indirect interest it may have in Buyer or any other change in ownership or control of Buyer; or

(vi) the absence of any notice to, or knowledge on behalf of, Guarantor of the existence or occurrence of any of the matters or events set forth in the foregoing clauses.

(b) Without limiting the generality of the foregoing, the obligations of Guarantor hereunder shall not be discharged or impaired or otherwise affected by the failure of Seller to assert any claim or cause of action or demand or to enforce any remedy under the Sale Agreement, any Ancillary Agreement or any other agreement or instrument, by any waiver or modification of any provision thereof, by any default, failure or delay, wilful or

otherwise, in the performance of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of Guarantor or that would otherwise operate as a discharge of Guarantor as a matter of law or equity (other than the performance in full of all Obligations, including the indefeasible payment in full in cash of all Monetary Obligations, and the termination and satisfaction of all the Obligations).

(c) Guarantor shall be entitled to set off claims that Buyer may have against Seller under the Sale Agreement or any Ancillary Agreement.

SECTION 6. Defenses of Buyer Waived. To the fullest extent permitted by applicable law, Guarantor waives any defense based on or arising out of any defense of Buyer or the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of Buyer (other than (1) the performance in full of all Obligations, including the indefeasible payment in full in cash of all Monetary Obligations, and the termination and satisfaction of all the Obligations or (2) the failure of Seller to perform an obligation of Seller under the Sale Agreement that affects Buyer's performance of its obligations under the Sale Agreement). Seller may compromise or adjust any part of the Obligations, make any other accommodation with Buyer or exercise any other right or remedy available to it against Buyer, without affecting or impairing in any way the liability of Guarantor hereunder except to the extent all the Obligations have been fully and finally performed, including the indefeasible payment in full in cash of all Monetary Obligations, and terminated. To the fullest extent permitted by applicable Law, Guarantor waives any defense arising out of any such election even though such election operates, pursuant to applicable Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of Guarantor against Buyer or any security.

SECTION 7. Representations and Warranties of Guarantor. Guarantor represents and warrants to Seller as follows:

(a) Organization. Guarantor is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite limited liability company power and authority to own, lease and operate its properties and to carry on its business as is now being conducted.

(b) Authority Relative to this Agreement.

Guarantor has all necessary limited liability company power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution and delivery by Guarantor of this Agreement and performance by Guarantor of its obligations hereunder have been duly and validly authorized by the Board of Directors (or equivalent governing body) of Guarantor and no other proceedings on the part of Guarantor are necessary to authorize this Agreement or performance by Guarantor of its obligations hereunder. This Agreement has been duly and validly executed and delivered by Guarantor and this Agreement constitutes a valid and binding agreement of Guarantor, enforceable against Guarantor in accordance with its terms.

(c) Consents and Approvals; No Violation.

(i) Neither the execution and delivery of this Agreement by Guarantor nor performance by Guarantor of its obligations hereunder will (A) conflict with or result in any breach of any provision of the Certificate of Formation or Operating Agreement of Guarantor, (B) result in a default (or give rise to any right of termination, cancelation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Guarantor or any of its subsidiaries is a party or by which any of their respective assets may be bound or (C) violate any Law applicable to Guarantor, or any of its assets, except in the case of clauses (B) and (C) for such failures to obtain a necessary consent, defaults and violations which would not, individually or in the aggregate, be reasonably expected to have a material adverse effect on the ability of Guarantor to discharge its obligations under this Agreement.

(ii) No declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for performance by Guarantor of its obligations hereunder.

SECTION 8. Agreement to Perform and Pay.

In furtherance of the foregoing and not in limitation of any other right that Seller has at law or in equity against Guarantor by virtue hereof, upon the failure of Buyer to perform or pay any Obligation when and as the same shall become due, Guarantor hereby promises to and will forthwith, as the case may be, (a) perform, or cause to be performed, such unperformed Obligations and (b) pay, or cause to be

paid, to Seller in cash the amount of such unpaid Obligations.

SECTION 9. Information. Guarantor assumes all responsibility for being and keeping itself informed of Buyer's financial condition and assets, and of all other circumstances bearing upon the risk of nonperformance of the Obligations (including the nonpayment of Monetary Obligations) and the nature, scope and extent of the risks that Guarantor assumes and incurs hereunder, and agrees that Seller will not have any duty to advise Guarantor of information known to it regarding such circumstances or risks.

SECTION 10. Termination and Reinstatement. The guarantee made hereunder (a) shall terminate when all the Obligations have been (i) performed in full, including the indefeasible payment in full of the Monetary Obligations and (ii) terminated and satisfied and (b) shall continue to be effective or be reinstated, as the case may be, if at any time any payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by Seller upon the bankruptcy or reorganization of Buyer or Guarantor or for any other reason.

SECTION 11. Assignment; No Third Party Beneficiaries. This Agreement and all of the provisions hereunder shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests and obligations hereunder shall be assigned by Guarantor, including by operation of Law, without the prior written consent of Seller; provided, however, that Guarantor shall have the right to assign this Agreement and its rights, interests and obligations hereunder to Entergy Corporation or its successors.

SECTION 12. Amendment and Modification; Extension; Waiver. This Agreement may be amended, modified or supplemented only by an instrument in writing signed on behalf of each of the Parties. Any agreement on the part of a Party to any extension or waiver in respect of this Agreement shall be valid only if set forth in an instrument in writing signed on behalf of such Party. The failure of a Party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

SECTION 13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might

otherwise govern under applicable principles of conflicts of law).

SECTION 14. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

if to Guarantor, to:

Entergy International Holdings Ltd LLC
639 Loyola Avenue
New Orleans, LA 70161
Telecopy No.: (504) 576-4009
Attention: Chief Financial Officer

with a copy on or prior to the Closing Date to:

c/o Entergy Nuclear, Inc.
P.O. Box 31995
Jackson, MS 39286-1995
Telecopy No.: (601) 368-5694
Attention: Assistant Secretary

if to Seller, to:

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, NY 10003
Telecopy No.: (212) 677-0601
Attention: General Counsel

with a copy on or prior to the Closing Date to:

Cravath, Swaine & Moore
825 Eighth Avenue
New York, NY 10019
Telecopy No.: (212) 474-3700
Attention: George W. Bilicic, Jr., Esq.

SECTION 15. Jurisdiction and Enforcement.

(a) Each of the Parties irrevocably submits to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, New York County and (ii) the United States District Court for the Southern District of New York, for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated

hereby. Each of the Parties agrees to commence any action, suit or proceeding relating hereto either in the United States District Court for the Southern District of New York or, if such suit, action or proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, New York County. Each of the Parties further agrees that service of process, summons, notice or document by hand delivery or U.S. registered mail at the address specified for such Party in Section 14 (or such other address specified by such Party from time to time pursuant to Section 14) shall be effective service of process for any action, suit or proceeding brought against such Party in any such court. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, this being in addition to any other remedy to which they are entitled at law or in equity.

SECTION 16. Survival of Agreement. All covenants, agreements, representations and warranties made by Guarantor herein shall be considered to have been relied upon by Seller and shall survive the consummation of the transactions contemplated by the Sale Agreement regardless of any investigation made by Seller or on its behalf, and shall continue in full force and effect as long as any Obligations remain outstanding.

SECTION 17. Effectiveness; Counterparts. This Agreement shall become effective when executed by Guarantor and Seller. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 18. Rules of Interpretation. The rules

of interpretation specified in Section 11.08 of the Sale Agreement shall be applicable to this Agreement.

SECTION 19. Severability. (a) If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

(b) In the event that the provisions of this Agreement are claimed or held to be inconsistent with any other agreement or instrument evidencing the Obligations, the terms of this Agreement shall remain fully valid and effective.

SECTION 20. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties in respect of the matters contemplated hereby. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein or therein. This Agreement supersedes all prior agreements and understandings between the Parties with respect to the matters contemplated hereby.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written as of the day and year first above written.

ENTERGY INTERNATIONAL HOLDINGS
LTD LLC,

by _____

Name:

Title:

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.,

by _____

Name:

Title:

FORM OF OPINION OF COUNSEL TO GUARANTOR

[], 2001

Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York, NY 10003

Guarantee Agreement

Ladies and Gentlemen:

We have acted as counsel to Entergy International Holdings Ltd LLC, a Delaware limited liability company ("Guarantor"), in connection with the Guarantee Agreement (the "Guarantee") dated as of [], 2001, between Guarantor and Consolidated Edison Company of New York, Inc., a New York corporation ("Seller"). Capitalized terms used but not defined herein have the meanings assigned to them in the Guarantee.

In that connection, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, corporate records and other instruments as we have deemed necessary or appropriate for the purposes of this opinion, including: (a) the Guarantee, (b) the Certificate of Incorporation and By-laws (or other similar governing documents) of Guarantor, (c) resolutions of the Board of Directors of Guarantor and (d) the Generating Plant and Gas Turbine Asset Purchase and Sale Agreement dated as of November 9, 2000, between Entergy Nuclear Indian Point 2, LLC, a Delaware limited liability company, and Seller (the "Sale Agreement") and the Ancillary Agreements (as defined in the Sale Agreement).

In rendering our opinion, we have assumed the due authorization, execution and delivery of the Guarantee by Seller.

Based upon the foregoing and subject to the qualifications hereinafter set forth, we are of the opinion as follows:

1. Guarantor is a limited liability company validly existing and in good standing under the laws of the State of Delaware. Guarantor has all necessary limited

liability company power and authority to execute and deliver the Guarantee and to consummate the transactions contemplated thereby; and the execution and delivery by Guarantor of the Guarantee and the performance by Guarantor of its obligations thereunder have been duly and validly authorized by all necessary limited liability company action on the part of Guarantor.

2. The Guarantee has been duly executed and delivered by Guarantor, and assuming that the Guarantee constitutes a valid and binding obligation of Seller, the Guarantee constitutes a valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar laws affecting creditors' rights generally from time to time in effect and to general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing, regardless of whether considered in a proceeding in equity or at law). With respect to the foregoing opinion, the availability of a decree for specific performance or an injunction is subject to the discretion of the court requested to issue any such decree or injunction.

3. Subject to obtaining Guarantor Required Regulatory Approvals, neither the execution and delivery of the Guarantee nor the performance by Guarantor of its obligations thereunder will (i) conflict with or result in any breach of any provision of the Certificate of Formation or Operating Agreement (or other similar governing documents) of Guarantor, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Guarantor or any of its subsidiaries is a party or by which any of their respective assets may be bound or (iii) violate any Law applicable to Guarantor, or any of its assets, except in the case of clauses (ii) and (iii) for such failures to obtain a necessary consent, defaults and violations which would not, individually or in the aggregate, be reasonably expected to have a material adverse effect on the ability of Guarantor to discharge its obligations under the Guarantee.

4. No declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for performance by Guarantor of its obligations under the Guarantee.

We express no opinion herein as to (i) the provisions of the Guarantee insofar as such provisions relate to the subject matter jurisdiction of the United States District Court for the Southern District of New York to adjudicate any controversy related thereto and (ii) the waiver of an inconvenient forum set forth in the provisions of the Guarantee.

We are furnishing this opinion to you pursuant to Section 7.03(g) of the Sale Agreement, solely for your benefit in connection with the transactions contemplated by the Guarantee and the Sale Agreement. This opinion may not be relied upon by any other person or for any other purpose or used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,

FORM OF BILL OF SALE

BILL OF SALE, made, executed and delivered on [], 2001, by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a New York corporation ("Seller") and ENTERGY NUCLEAR INDIAN POINT 2, LLC, a Delaware limited liability company ("Buyer").

W I T N E S S E T H:

WHEREAS, Seller and Buyer are parties to a Generating Plant and Gas Turbine Asset Purchase and Sale Agreement dated as of November 9, 2000 (the "Agreement"); capitalized terms which are used in this Bill of Sale but are not defined herein shall have the meaning ascribed to such terms in the Agreement; and

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions of the Agreement, Seller does hereby sell, assign, convey, transfer and deliver to Buyer, subject to the terms of the Agreement, the Auctioned Assets that constitute personal property, including the items of personal property set forth in Schedule 2.02(a)(iii) to the Agreement.

This Bill of Sale and Assignment is subject to the terms and conditions of the Agreement, and the representations, agreements and obligations of Seller and Buyer contained in the Agreement are incorporated herein by reference and constitute an integral part of this Bill of Sale.

This instrument shall be binding upon and shall inure to the benefit of the respective successors and assigns of Seller and Buyer.

This Bill of Sale shall be construed and enforced in accordance with the laws (other than the conflict of law rules) of the State of New York.

This Bill of Sale may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, Seller has duly executed this Bill of Sale on the Date first above written.

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: _____
Name: _____
Title: _____

Agreed and accepted:

ENTERGY NUCLEAR INDIAN POINT 2, LLC

By: _____
Name: _____
Title: _____

EXHIBIT I

APPLICATION FOR SERVICE FOR
NON-RESIDENTIAL CUSTOMERS

[provided separately]

DIRECT RETAIL CUSTOMER OPERATING AND
TRANSMISSION SERVICE AGREEMENT

[provided separately]

DIRECT CUSTOMER OPERATING AGREEMENT

[provided separately]