

EXHIBIT C

Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (“Agreement”) is entered into as of April 14, 2022, by and between Consolidated Edison Company of New York, Inc., a New York corporation with its principal offices located at 4 Irving Place, New York NY 10003 (“Seller”) and New York Transco, LLC, a New York limited liability company with its principal offices located at 1 Hudson City Center, Hudson, NY 12534 (“Buyer”). Seller and Buyer are sometimes hereinafter referred to individually as “Party” and collectively as “Parties”.

RECITALS:

WHEREAS, Seller owns and operates electric transmission facilities in the State of New York;

WHEREAS, Buyer was formed by Affiliates of New York’s investor-owned transmission owners, including Seller’s Affiliate, for the purpose of developing, constructing, owning, operating and maintaining transmission facilities that upgrade and/or enhance, and are incremental to, certain transmission facilities owned and operated by such investor-owned transmission owners;

WHEREAS, among the transmission projects Buyer intends to develop, construct, own and operate include that project currently under development by Buyer known as the “New York Energy Solution Project” (the “Project”), for which the New York State Public Service Commission (the “NYPSC”) issued a Certificate of Environmental Compatibility and Public Need authorizing the construction, operation, and maintenance of the Project pursuant to Article VII of the New York Public Service Law and which was evaluated by the New York Independent System Operator, Inc. (“NYISO”) pursuant to the NYISO’s Transmission Interconnection Procedures located in Attachment P of the ISO OATT; and

WHEREAS, in connection with the implementation of the Project, at the Closing, Seller desires to sell and Buyer desires to purchase the Purchased Assets (as hereinafter defined), in each case on the terms and subject to the conditions set forth herein.

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein and of mutual release contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows.

ARTICLE I
DEFINITIONS

Section 1.01 Definitions. As used herein, the following terms have the following meanings:

“AAA” means the American Arbitration Association.

“Affiliate” means, with respect to a Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with, such Person. The term “control” means the possession, directly or indirectly, of the power to direct the management or policies of a Person. For purposes of this Agreement, Buyer and Seller shall not be deemed Affiliates of each other.

“Applicable Regulatory Authority” means the NYPSC or the FERC or the NYISO.

“Business Day” means a day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required to be closed.

“CEII” means critical energy infrastructure information as defined under applicable FERC rules and policies.

“CIP” means critical infrastructure protection information as defined under applicable North American Electric Reliability Corporation standards and procedures.

“Confidential Information” means any and all information prepared or delivered to Buyer by Seller or its Representatives in connection with the transactions contemplated hereby, including, without limitation, information that (a) is marked or designated as “confidential” or “proprietary,” (b) is disclosed orally or visually (provided that such information is identified as proprietary or confidential at the time of such disclosure), (c) is known to Buyer, or should be known to a reasonable Person given the facts and circumstances of the disclosure, to be confidential or proprietary to Seller, or (d) has come into Buyer’s possession pursuant to this Agreement or any other agreement to which Buyer is a party; except, in each case, to the extent that such information can be shown to have been (i) in the public domain through no action of Buyer or its Representatives, (ii) lawfully acquired by Buyer from other sources not known by Buyer (after due inquiry) to be bound by any obligations of confidentiality, (iii) independently developed by Buyer without reference to the Confidential Information and without a breach of this Agreement, or (iv) approved for release by written authorization of Seller or the third party owner of the information.

“Contract” means any written agreement, lease, license, commitment or arrangement, including any sales orders or purchase orders.

“Easement Agreement” means that certain Easement Grant to be entered into by and between Buyer and Seller concurrently with this Agreement.

“FERC” means the Federal Energy Regulatory Commission.

“Final NYPSC Approval Date” means either (1) the date on which the time to seek judicial review of the NYPSC Approval expires; or (2) if a case seeking judicial review of the NYPSC Approval shall timely be commenced, then the date on which an order, entered by a court of competent jurisdiction, upholding the NYPSC Approval can no longer be appealed.

“Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric transmission industry during the relevant time period, or any of the practices, methods and 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 good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to delineate acceptable practices, methods or acts generally accepted in the region.

“Governmental Authority” means federal, state, local or other governmental or regulatory authority, administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental or quasi-governmental authority having jurisdiction over any of the Parties, the Purchased Assets, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police or taxing authority or power; provided, however, that such term does not include any public power authority or any Representative thereof.

“Law” means any U.S. federal, state, local or non-U.S. statute, law, ordinance, regulation, rule, code, order, ordinance (including zoning), executive order or decrees, edicts or binding interpretation by a Governmental Authority or other requirement or rule of law, including the common law.

“Liabilities” means all debts, liabilities (including liabilities for Taxes), guarantees, assurances, commitments and obligations, whether fixed, contingent or absolute, asserted or un-asserted, matured or un-matured, liquidated or unliquidated, accrued or un-accrued, known or unknown, due or to become due, whenever and however arising (including whether arising out of any contract or tort based on negligence, or strict liability) and whether or not the same would be required by generally accepted accounting principles to be reflected in financial statements or disclosed in the notes thereto.

“Lien” means any lien, pledge, security interest, hypothecation, option, encumbrance, claim or charge of any kind.

“Losses” means all losses, damages, costs, expenses, liabilities, fines, penalties, environmental investigation and remediation costs, obligations and claims of any kind (including any action, claim, inquiry, proceeding or investigation brought by any Governmental Authority or other Person and including reasonable attorneys’ fees).

“NYPSC Approval” means an order, issued by the NYPSC pursuant to Section 70 of the New York Public Service Law, approving the transfers of the Purchased Assets hereunder and the Project Land Rights under the Easement Agreement.

“Organizational Document” means, with respect to an entity, its certificate of incorporation, articles of incorporation, by-laws, articles of organization, limited liability company agreement, formation agreement, joint venture agreement or other similar organizational document of such entity.

“Permits” means all permits, approvals, identification numbers, licenses or other authorizations required by a Governmental Authority for the development, construction, ownership, operation or maintenance of the Purchased Assets.

“Person” means any individual, corporation, company, partnership (limited or general), limited liability company, joint venture, association, trust or other business entity.

“Project Land Rights” means those rights to be granted to Buyer by Seller, and those obligations to be complied with by, Buyer pursuant to the terms and conditions of the Easement Agreement.

“Protected Critical Infrastructure Information” means CEII and CIP.

“Regulatory Methodologies” means, for purposes of the Purchased Assets, the value determined in accordance with FERC Uniform System of Accounts and generally accepted accounting principles.

“Representatives” means, collectively, the members, managers, officers, directors, employees, agents, consultants and advisors of Buyer or Seller, as applicable.

“Section 70 Filing Date” means the date on which Seller and Buyer, pursuant to Section 6.01 of this Agreement, make the filing with the NYPSC seeking approval under Section 70 of the New York Public Service Law of the transfers of the Purchased Assets hereunder and the Project Land Rights to Buyer under the Easement Agreement.

“Senior Executive” means the Chief Executive Officer (or similar position) of the relevant Party, or such other executive officer designated by the relevant Party with the power and authority to represent such Person.

“Transmission Lines” means Seller’s portion of the two (2) 345 kV overhead transmission lines designated as Lines #91 and #92 (to be designated as Lines Y58 and Y59) located along an approximately 0.8-mile stretch between Buyer’s Van Wagner substation and Seller’s Pleasant Valley substation and consisting of Transmission Line Facilities.

“Transmission Line Facilities” means those items of equipment, including wire, line, conduit, conductor, insulators and other ancillary equipment, that are part of the Transmission Lines, including, the two (2) steel towers to which the Transmission Lines are attached (designated as K389 and K390), as more specifically described in Schedule 2.01(a) hereto, but excluding any real property rights (including any Project Land Rights) and Seller’s existing tower to which the Transmission Lines are attached at Seller’s Pleasant Valley substation.

“Taxes” means all taxes, charges, fees, levies, penalties or other assessments imposed by any federal, state, local, provincial or foreign taxing authority, including, income, gross receipts, excise, personal property, sales, use, transfer, customs, duties, franchise, payroll, withholding, social securities, receipts, license, stamp, occupation, employment, including any interest, penalties or additions attributable thereto, and any payments to any state, local, provincial or foreign taxing authorities in lieu of such taxes, charges, fees, levies or assessments.

ARTICLE II PURCHASE AND SALE

Section 2.01 Purchase and Sale of Purchased Assets. On the terms and subject to the conditions of this Agreement, at the Closing, Seller shall sell, convey, assign, transfer and deliver to Buyer, free and clear of all Liens, and Buyer shall purchase, acquire, assume and accept from Seller, all of Seller’s right, title and interest in and to the following assets, properties and rights in and to the Purchased Assets. As used in this Agreement, “Purchased Assets” shall mean the following:

(a) The Transmission Lines and the Transmission Line Facilities identified on Schedule 2.01(a), (which, for clarity, excludes Seller’s existing tower to which the

Transmission Lines are attached at Seller's Pleasant Valley substation, all other existing towers owned or leased by Seller and all Excluded Assets);

(b) All rights, title and interests of Seller to the Contracts exclusively related to the Purchased Assets and not involving real property rights (including any Project Land Rights), including those Contracts that are identified on Schedule 2.01(b);

(c) All Permits exclusively related to the Purchased Assets or commercial operation of the Purchased Assets, including the Permits set forth on Schedule 2.01(c);

(d) All claims, causes of action, choose in action, rights of recovery and rights under or with respect to the Purchased Assets and the Assumed Liabilities; and

(e) Any other assets, rights, Contracts and claims owned or held immediately prior to the Closing by Seller that are exclusively related to the Purchased Assets and that are not Excluded Assets.

Section 2.02 Excluded Assets. The Purchased Assets do not include, and Seller is hereby not selling, conveying, assigning, transferring or delivering to Buyer, and Buyer is hereby not purchasing, acquiring, assuming or accepting from Seller, any assets, properties or rights that are not set forth in Section 2.01 above (including the corporate or similar records of Seller and any property rights (including, Project Land Rights)).

Section 2.03 Assumed Liabilities. On the terms and subject to the conditions of this Agreement, at the Closing, Buyer shall assume and become responsible for, and from and after the Closing, Buyer shall pay, discharge or perform when due, as appropriate, all Liabilities of Seller in respect of the Purchased Assets (collectively, the "Assumed Liabilities"), regardless of when or where such Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Closing, or where or against whom such Liabilities are asserted or determined or whether determined prior to or after the date of this Agreement, but in each case, excluding the Excluded Liabilities (as defined in Section 2.04). Assumed Liabilities shall include the following:

(a) all sales and transfer Taxes applicable to the sale of the Purchased Assets hereunder;

(b) all Liabilities for Taxes applicable to the Purchased Assets with respect to any period (or portion thereof) beginning after the Closing;

(c) all Liabilities arising under any Contract assigned to Buyer under Section 2.01(b) (collectively, "Assumed Contracts");

(d) all Liabilities arising out of Buyer's ownership and use of the Purchased Assets; and

(e) all Liabilities relating to or arising out of Buyer's future development, construction, ownership, operation and maintenance of the Purchased Assets.

Section 2.04 Excluded Liabilities. Notwithstanding the foregoing, the Assumed Liabilities shall not in any event include any of the following Liabilities (the “Excluded Liabilities”):

- (a) All Liabilities associated with any Excluded Asset;
- (b) All Liabilities for Taxes applicable to the Purchased Assets with respect to any period (or portion thereof) ending on or before the Closing; and
- (c) All Liabilities that are expressly contemplated by this Agreement or any Conveyance Document to be assumed or retained by Seller.

Section 2.05 Purchase Price. The consideration to be paid by Buyer to Seller for the Purchased Assets (the “Purchase Price”) shall be (i) cash in an amount equal to the Net Regulatory Book Value of the Purchased Assets as of the Closing Date (the “Cash Consideration”) and (ii) the assumption of the Assumed Liabilities.

ARTICLE III CLOSING

Section 3.01 Closing; Closing Date. On (i) April 3, 2023 following the satisfaction, or waiver by the Party entitled to the benefit thereof, of the conditions precedent set forth in Section 7.01 and Section 7.02, or (ii) such other date as Seller and Buyer may mutually agree in writing (provided that in either case, the other conditions to closing specified in Section 7.01 and Section 7.02 are then satisfied or have been waived), the transfer of the Purchased Assets and the assumption of the Assumed Liabilities contemplated by this Agreement shall take place at a closing (the “Closing”) held via escrow or at place as the Parties may agree in writing (the date on which the Closing takes place being, the “Closing Date”).

Section 3.02 Deliveries at Closing.

(a) Seller Deliveries. At the Closing, Seller shall deliver to Buyer the following:

(i) a Bill of Sale, substantially in the form of Exhibit A attached hereto (the “Bill of Sale”), duly executed by Seller;

(ii) an Assignment and Assumption Agreement, substantially in the form of Exhibit B attached hereto (the “Assignment and Assumption Agreement”), duly executed by Seller (in the event of a failure by Licensee (as defined in Schedule 2.01(b)) to remove its equipment and personalty from Seller’s premises as of the Closing Date);

(iii) such other good and sufficient instruments of transfer as Buyer reasonably deems necessary and appropriate to vest in Buyer all right, title and interest in, to and under the Purchased Assets and to effectuate the assumption by Buyer of the Assumed Liabilities (together with the items referenced in clause (i), the “Conveyance Documents”);

(iv) copies of the Assumed Contracts identified on Schedule 2.01(b); and

(v) all such other documents, agreements, instruments, writing and certificates as Buyer may reasonably request and as are necessary for Seller to satisfy its obligations hereunder.

(b) Buyer Deliveries. At the Closing, Buyer shall deliver to Seller the following:

(i) the Cash Consideration, by wire transfer of immediately available funds, to the account designated by Seller to Buyer prior to the Closing Date;

(ii) the Bill of Sale, duly executed by Buyer;

(iii) the Assignment and Assumption Agreement, duly executed by Buyer (in the event of a failure by Licensee to remove its equipment and personalty from Seller's premises as of the Closing Date); and

(iv) all such other documents, agreements, instruments, writings and certificates as Seller may reasonably request and as are necessary for Buyer to satisfy its obligations hereunder.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer as of the date hereof and as of the Closing Date, unless otherwise specified, as follows:

Section 4.01 Organization and Good Standing. Seller is a corporation duly incorporated, validly existing and in good standing under the laws of the State of New York and is duly qualified to do business and is in good standing in all jurisdictions in which the nature of its business or properties makes such qualification necessary. Seller has the necessary corporate power and authority to own its properties, to carry on its business as now being conducted.

Section 4.02 Authority. Seller has the right, power and authority to enter into this Agreement and each Conveyance Document and to perform its obligations hereunder and thereunder and, subject to the conditions set forth herein, to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and each Conveyance Document and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of Seller. This Agreement has been duly executed and delivered by Seller, and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles, regardless of whether enforceability is sought in a proceeding in equity or at law (the "Bankruptcy and Equity Exceptions"). Each Conveyance Document when executed and delivered by Seller and the other Parties thereto, will constitute the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with their terms, subject to the Bankruptcy and Equity Exceptions.

Section 4.03 Consents and Approvals; No Conflict.

(a) Except for any required filings with and approvals of applicable Governmental Authorities as set forth on Schedule 4.03(a), no filing or registration with, and no permit, authorization, consent, order or approval of, any Governmental Authority is necessary or required in connection with the execution and delivery of this Agreement or any Conveyance Document by Seller or the consummation by Seller of the transactions contemplated hereby or thereby.

(b) Subject to making the filings and receipt of the approvals referenced in Section 4.03(a), neither the execution, delivery and performance of this Agreement and each Conveyance Document, nor the consummation of the transactions contemplated hereby and thereby will violate, breach or conflict with (or, in the case of clause (iii) below, give rise to a material default or right of cancellation, termination, acceleration or increased cost under or to impose any Lien under), (i) the Organizational Documents of Seller, (ii) any Law applicable to Seller or its assets or business, or (iii) any material agreement or instrument binding upon Seller or any of its assets, except, in the case of clauses (ii) and (iii) above, for such violations, breaches, conflicts, defaults, rights, increased costs, or Liens that, individually or in the aggregate, are not reasonably expected to have a material adverse effect on, or prevent or materially delay, the consummation of the transactions contemplated hereby.

Section 4.04 Litigation. There are no actions, disputes, claims, suits, complaints, mediations, arbitrations, investigations or other proceedings pending before any Governmental Authority or, to the knowledge of Seller, threatened against or affecting Seller that relates to any Purchased Asset that would, if adversely determined, have a material adverse effect on the Purchased Assets or on Seller's ability to perform its obligations hereunder or under any Conveyance Document, or on the validity or enforceability of this Agreement or any Conveyance Document.

Section 4.05 Purchased Assets.

(a) Subject to receipt of the approvals referenced in Section 4.03(a), immediately after the Closing, Buyer will have good and valid title to, or a valid right to use, the Purchased Assets, free and clear of all Liens.

(b) As of the Closing Date, except for those rights granted by this Agreement or any Conveyance Document, no Person has any rights to acquire or lease all or any portion of any Purchased Asset owned or otherwise held by Seller as of such date, or obtain any interest therein, and no Person has any outstanding options, rights of first refusal or first offer, or rights of reversion, or any other similar rights with respect to any Purchased Asset.

(c) Prior to and from the date of this Agreement through the Closing Date, Seller has conducted, operated and used the Purchased Assets in accordance with Good Utility Practice, except for where the failure to do so would not reasonably be expected to have a material adverse effect on the Purchased Assets.

Section 4.06 Net Book Value. The closing statement delivered by Seller to Buyer immediately prior to the Closing has been prepared in good faith by Seller, was derived from Seller's financial books and records, and presents fairly, in all material respects, the net regulatory book value, calculated and determined in accordance with the Regulatory Methodologies ("Net

Regulatory Book Value”), of each Purchased Asset or category of Purchased Assets (other than Project Land Rights) transferred to Buyer as of the Closing.

Section 4.07 Assumed Contracts.(a) On or prior to the Closing Date, Seller shall have provided to Buyer true and correct copies of all Assumed Contracts as of such date. As of the date of this Agreement and the Closing Date, each Assumed Contract is a legal, valid and binding obligation of, and enforceable against Seller and, to the knowledge of Seller, each other party thereto, subject to the Bankruptcy and Equity Exceptions, and has been fully performed in accordance with its terms, except for such failures to be legal, valid and binding that would not reasonably be expected, individually or in the aggregate, to have a material adverse effect on the rights, claims and warranties under the Assumed Contract to be assigned to and assumed by Buyer.

(b) Except as set forth in Schedule 4.07(b), as of the date of this Agreement and the Closing Date, Seller is not, and, to the knowledge of Seller, no other party to any Assumed Contract is, in violation, breach or default (nor has any event occurred which, with the notice or the passage of time, or both, would constitute such a breach or default) under any Assumed Contract, except in each case where such violation, breach, default or event of default would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights, claims and warranties under such Assumed Contract to be assigned to and assumed by Buyer.

Section 4.08 Compliance With Laws. Except as would not reasonably be expected to have a material adverse effect on the Purchased Assets, the conduct, operation and use of the Purchased Assets by Seller have been in compliance with all applicable Laws.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as of the date hereof and as of the Closing Date as follows:

Section 5.01 Organization and Good Standing. Buyer is duly organized, validly existing and in good standing under the laws of the State of New York and is duly qualified to do business and is in good standing in all jurisdictions in which the nature of its business or properties makes such qualification necessary. Buyer has the necessary limited liability company power and authority to own its properties, to carry on its business as now being conducted and as proposed to be conducted.

Section 5.02 Authority. Buyer has the right, power and authority to enter into this Agreement and each Conveyance Document to which it is party and to perform its obligations hereunder and thereunder and, subject to the conditions set forth herein, to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and each Conveyance Document to which it is party and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary limited liability company action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the Bankruptcy and Equity Exceptions. Each Conveyance Document to which it is party, when executed and delivered by Buyer and the other Parties thereto, will constitute the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with their terms, subject to the Bankruptcy and Equity Exceptions.

Section 5.03 Consents and Approvals; No Conflict.

(a) Except for any required filings with and approvals of applicable Governmental Authorities as set forth on Schedule 4.03(a), no filing or registration with, and no permit, authorization, consent, order or approval of, any Governmental Authority is necessary or required in connection with the execution and delivery of this Agreement or any Conveyance Document by Buyer or the consummation by Buyer of the transactions contemplated hereby or thereby.

(b) Subject to making the filings and receipt of the approvals referenced in Section 4.03(a), neither the execution, delivery and performance of this Agreement and each Conveyance Document, nor the consummation of the transactions contemplated hereby and thereby, will violate, breach or conflict with (or, in the case of clause (iii) below, give rise to a material default or right of cancellation, termination, acceleration or increased cost under or impose any Lien upon), (i) the Organizational Documents of Buyer, (ii) any Law applicable to Buyer or any Affiliate of Buyer or any of its or their respective assets or business or (iii) any material agreement or instrument applicable to or binding upon Buyer or any of its assets, except, in the case of clauses (ii) and (iii) above, for such violations, breaches, defaults, rights, increased costs, or Liens that, individually or in the aggregate, are not reasonably expected to have a material adverse effect on, or prevent or materially delay, the consummation of the transactions contemplated hereby.

Section 5.04 Litigation. There are no actions, disputes, claims, suits, complaints, mediations, arbitrations, investigations or other proceedings pending before any Governmental Authority or, to the knowledge of Buyer, threatened against or affecting Buyer that would, if adversely determined, have a material adverse effect on the Purchased Assets or on Buyer's ability to perform its obligations hereunder or under any Conveyance Document to which it is party, or on the validity or enforceability of this Agreement or any Conveyance Document to which it is party.

Section 5.05 Disclaimer. EXCEPT FOR SELLER'S REPRESENTATIONS AND WARRANTIES AS EXPRESSLY SET FORTH IN ARTICLE IV, BUYER ACKNOWLEDGES THAT ALL OF THE PURCHASED ASSETS ARE BEING SOLD TO BUYER "AS IS", "WHERE IS" AND "WITH ALL FAULTS" AND THAT SELLER IS NOT MAKING ANY OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, INCLUDING WITH RESPECT TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OF, OR TITLE TO, THE PURCHASED ASSETS, OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. BUYER IS A SOPHISTICATED PARTY AND HAS CONDUCTED ITS OWN DUE DILIGENCE INVESTIGATION OF THE PURCHASED ASSETS AND THE ASSUMED LIABILITIES.

**ARTICLE VI
COVENANTS**

Section 6.01 NYPSC Approval. It is specifically agreed and acknowledged by the Parties that the Closing is subject to Seller and Buyer receiving the NYPSC Approval and the Final NYPSC Approval Date occurring. Seller and Buyer shall use commercially reasonable efforts to prepare for, and file with, the NYPSC a duly completed joint petition (the "Joint Petition") as soon as reasonably possible following the date hereof. From the date of this Agreement until the date

of the Closing (the “NYPSC Approval Period”), Seller and Buyer shall use commercially reasonable and diligent efforts to pursue, in good faith, obtaining the NYPSC Approval and shall reasonably cooperate and consult with each other in connection therewith, and shall promptly furnish to the NYPSC such materials as are lawfully required by the NYPSC in connection with the Joint Petition. Throughout the NYPSC Approval Period, Seller and Buyer shall keep each other apprised of the status of the Joint Petition and shall furnish to the other Party hereof, promptly upon receiving or giving, as applicable, the same copies of all notices and other materials furnished to such Party by the NYPSC or from such Party to the NYPSC with respect to the Joint Petition or the subject matter hereof.

Section 6.02 Governmental and Other Consents and Approvals.

(a) Upon the terms and subject to the conditions of this Agreement, each of the Parties shall cooperate with the other and use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective, as soon as practicable after the date of this Agreement, the transactions contemplated by this Agreement and the Conveyance Documents. Without limiting the generality of the forgoing, upon the terms and subject to the conditions of this Agreement, from the date of this Agreement until the date of the Closing, each of the Parties shall use commercially reasonable efforts to: (i) promptly prepare and file all necessary documentation to effectuate all necessary filings, applications, notices, petitions and other documents, and otherwise to seek and obtain (and take all such other actions as may be required or requested by any Governmental Authority to seek and obtain, including promptly complying with any reasonable information or document requests from any Governmental Authority) all authorizations, consents, approvals and orders of, or exemptions or non-oppositions by, any Governmental Authority required to be obtained or made by Seller or Buyer in connection with this Agreement or the Conveyance Documents or the taking of any action contemplated hereby or thereby; (ii) avoid the entry of, or to effect the dissolution of, any decree, order, judgment, injunction, temporary restraining order or other order in any suit or proceeding (each, an “Order”) that would otherwise have the effect of preventing or materially delaying the consummation of the transactions contemplated by this Agreement; and (iii) defend any lawsuits or other legal or regulatory proceedings, whether judicial or administrative, challenging this Agreement, the Conveyance Documents or the transactions contemplated hereby or thereby, whether brought by a Governmental Authority or any third party. The Parties shall provide to any Governmental Authority notice of any actions under this Agreement that are required by applicable Law. In connection with the foregoing, Buyer shall have the right to review and approve in advance all characterizations of the information relating to Buyer or the transactions contemplated by this Agreement, on the one hand, and Seller shall have the right to review and approve in advance all characterizations of the information relating to Seller or the transactions contemplated by this Agreement, on the other hand, which appear in any filing made with any Governmental Authority in connection with the transactions contemplated by this Agreement (such approvals not to be unreasonably withheld, delayed or conditioned), in each case in a manner that protects attorney-client or attorney-work-product privilege. The Parties shall consult with one another with respect to the obtaining of all such approvals of Governmental Authorities and shall keep each other informed of the status thereof. The Parties will coordinate and cooperate fully with each other in exchanging such information and providing such assistance as each may reasonably request of the other in connection with the foregoing. Notwithstanding the foregoing, no Party shall be required to take any action (or not take any action) pursuant to this Section 6.02(a) that would cause any conditions to Closing of such Party in Article VII not to be satisfied.

(b) The Parties agree to cooperate and use commercially reasonable efforts to obtain any other consent and approval that may be required in connection with the transactions contemplated hereby; provided, however, that Seller shall not be required to compensate any third party in any material amount, commence or participate in litigation or offer or grant any material accommodation (financial or otherwise) to any third party to obtain any such consent or approval unless Buyer agrees to an adjustment in the Purchase Price hereunder in an amount equal to, or otherwise compensate Seller for, the costs incurred by Seller in connection therewith.

Section 6.03 Confidentiality.

(a) Until the Closing (or, if for any reason the sale and purchase of the Purchased Assets contemplated hereunder is not consummated, until the date that is three (3) years after the date on which this Agreement is terminated (or, in the case of Protected Critical Infrastructure Information, indefinitely)), Buyer shall hold, and shall cause its Representatives to hold, in strict confidence, and not to disclose or release or use, for any purpose other than as expressly permitted pursuant to this Agreement, any and all Confidential Information, without the prior written consent of Seller; provided that Buyer may disclose, or may permit disclosure of, Confidential Information (other than Protected Critical Infrastructure Information) (i) to those of its auditors, attorneys, financial advisors, bankers and other appropriate consultants and advisors who have a need to know such information for auditing, financial statement preparation and other non-commercial purposes, (ii) if required or compelled to disclose any such Confidential Information by judicial or administrative process or by other requirements of Law or stock exchange rule, (iii) to the extent necessary in connection with required or routine reporting to its potential or current members, partners and lenders or other financial or capital sources, (iv) to the extent necessary in connection with any proposed merger, sale of assets, business combination, financing, or other similar transaction in which Buyer may become a party; provided that in each such case (other than the case of clause (ii) above), the recipients of such information are bound by professional obligation or written agreement to hold such information confidential at least to the same extent as Buyer is obligated under this Section 6.03, and provided, further, that Buyer shall in all events remain liable for any failure by such recipients to comply with such obligation.

(b) Notwithstanding the foregoing, in the event that any demand or request for disclosure of Confidential Information is made pursuant to Section 6.03(a), Buyer shall promptly notify Seller of the existence of such request or demand and shall, if not prohibited by applicable Law and reasonably practicable, provide Seller with thirty (30) days to seek an appropriate protective order or other remedy, which the Parties will use commercially reasonable efforts to cooperate in obtaining. In the event that such appropriate protective order or other remedy is not obtained, Buyer shall or shall cause its Representatives to furnish, or cause to be furnished, only that portion of the Confidential Information that is legally required to be disclosed and shall take commercially reasonable steps to ensure that confidential treatment is accorded such information. With respect to regulatory requests received in the ordinary course, Buyer shall use at least the same degree of care (which in no event shall be less than reasonable care) in connection with demands or requests for the disclosure of Seller's Confidential Information as it uses to protect its own similar Confidential Information in connection with similar regulatory requests.

Section 6.04. Casualty; Condemnation.

(a) If any Purchased Asset is damaged by fire or other casualty at or prior to the Closing for such Purchased Asset (a "Casualty Event"), this Agreement shall remain in full

force and effect and Buyer shall be required to purchase such Purchased Asset in accordance with this Agreement with no credit against the Purchase Price and Seller shall have no liability whatsoever on account thereof; provided, however, on the Closing Date, Seller shall transfer and/or assign to Buyer any and all monies and claims received by and/or accrued to Seller on account of such Casualty Event, less such sums, if any, as shall have been actually and reasonably expended by Seller in connection with the repair or restoration of such Casualty Event or the prosecution of such claim.

(b) In the event that any Purchased Asset is subject to condemnation or taking by eminent domain in any Action settled, consented to or finally adjudicated prior to the Closing Date, such Purchased Asset shall not be conveyed to Buyer at the Closing (and the Purchase Price shall be adjusted accordingly), and Seller shall be entitled to any compensation, payment or other relief in connection therewith; provided that an underlying Action shall be considered finally adjudicated when an order determining any compensation, payments or other relief to be paid with respect to such Action has been issued by a court of competent jurisdiction and has become non-appealable.

Section 6.05. Further Action. Prior to the Closing, and subject to the terms and conditions of this Agreement, each Party (a) shall execute and deliver, or cause to be executed and delivered, such documents and other papers and shall take, or cause to be taken, such further actions as may reasonably be required to carry out the provisions of this Agreement and each Conveyance Document and give effect to the transactions contemplated hereby and thereby, and (b) shall refrain from taking any actions that would reasonably be expected to impair, delay or impede the transaction contemplated by this Agreement.

ARTICLE VII CONDITIONS TO CLOSING

Section 7.01 Conditions to Seller's Obligation to Close. The obligation of Seller to consummate the transactions contemplated at the Closing shall be subject to the fulfillment or waiver by Seller, in its sole discretion, at or prior to the Closing, of each of the following conditions:

(a) Representations and Warranties; Covenants. The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects on the Closing Date with the same effect as if made on such Closing Date.

(b) Covenants. Buyer shall have performed and complied in all material respects with its covenants and agreements required by this Agreement to be performed or complied with by Buyer at or prior to the Closing.

(c) NYPSC Approval. Seller shall have received the NYPSC Approval and the Final NYPSC Approval Date shall have occurred.

(d) Other Required Approvals. (i) All consents, approvals and permits listed on Schedule 7.01(d) shall have been obtained or received and (ii) all other consents, approvals and permits of a Governmental Authority (other than those identified in Schedule 7.01(d)) required to be obtained prior to the Closing to transfer the Purchased Assets shall have been obtained unless, in the case of this clause (ii), the failure to receive any such consents, approvals and permits would

not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the consummation of the transactions contemplated hereby.

(e) No Governmental Order. (i) No Order entered by or with any Governmental Authority of competent jurisdiction that prohibits or materially restrains the consummation of the transactions contemplated hereby shall have been issued and remain in effect and (ii) no Law shall have been enacted or entered by any Governmental Authority that prohibits or makes illegal the consummation of the transactions contemplated hereby.

(f) Closing Deliverables. Buyer shall have received the certificates, documents and other items to be delivered to Buyer pursuant to Section 3.02(a).

Section 7.02 Conditions to Buyer's Obligation to Close. The obligation of Buyer to consummate the transactions contemplated at the Closing shall be subject to the fulfillment or waiver by Buyer, in its sole discretion, at or prior to the Closing, of each of the following conditions:

(a) Representations and Warranties; Covenants. The representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects on the Closing Date with the same effect as if made on the Closing Date (except for any representation or warranty made as of a specific date, which shall be so true and correct in all material respects only as of such specific date).

(b) Covenants. Seller shall have performed and complied in all material respects with its covenants and agreements required by this Agreement to be performed or complied with by Seller at or prior to the Closing.

(c) NYPSC Approval. Buyer shall have received the NYPSC Approval and the Final NYPSC Approval Date shall have occurred.

(d) Other Required Approvals. (i) All consents, approvals and permits listed on Schedule 7.02(d) shall have been obtained or received and (ii) all other consents, approvals and permits of a Governmental Authority (other than those identified in Schedule 7.02(d)) required to be obtained prior to the Closing to transfer the Purchased Assets shall have been obtained unless, in the case of this clause (ii), the failure to receive any such consents, approvals and permits would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the consummation of the transactions contemplated hereby.

(e) No Governmental Order. (i) No Order entered by or with any Governmental Authority of competent jurisdiction that prohibits or materially restrains the consummation of the transactions contemplated hereby shall have been issued and remain in effect and (ii) no Law shall have been enacted or entered by any Governmental Authority that prohibits or makes illegal the consummation of the transactions contemplated hereby.

(f) Closing Deliverables. Seller shall have received the certificates, documents and other items to be delivered to Seller pursuant to Section 3.02(b).

Section 7.03 Frustration of Closing Conditions. Neither Buyer, on the one hand, nor Seller, on the other hand, may rely on the failure of any condition set forth in this Article VII to be satisfied if such failure was caused by, or was the result of, its breach of this Agreement.

ARTICLE VIII INDEMNIFICATION

Section 8.01 Indemnification; Survival. The representations and warranties of Seller and Buyer contained in or made pursuant to this Agreement or in any certificate furnished pursuant to this Agreement and all claims and cause of actions with respect thereto shall survive until the Survival Termination Date; provided that the representations, warranties and covenants and all claims and causes of actions with respect thereto contained in Sections 4.01, 4.02, 5.01 and 5.02, shall survive indefinitely to the maximum extent permitted by applicable Law. Other than as set forth in the previous sentence, the covenants and agreements made pursuant to this Agreement or in any certificate furnished pursuant to this Agreement that contemplate actions to be taken or restrict certain actions from being taken at or prior to the Closing shall be performed or complied with in their entirety at or prior to the Closing, and all claims and causes of action made with respect thereto shall survive until the Survival Termination Date. The covenants and agreements made pursuant to this Agreement or in any certificate furnished pursuant to this Agreement that contemplate actions to be taken or restrict certain actions from being taken, in whole or in part, after the Closing are to be performed or complied with in whole or in part following the Closing and shall survive for the period provided in such covenants and agreement, if any, or until performed in accordance with their respective terms, and all claims and causes of actions with respect thereto shall survive for eighteen (18) months after such date. For purposes of this Agreement, the “Survival Termination Date” shall mean the date that is eighteen (18) months after the Closing Date. Notwithstanding the foregoing, if a claim notice meeting the requirements of Section 8.01(d) with respect to indemnification under this Article VIII shall have been given pursuant to Section 10.01 within the survival period, the representations, warranties, covenants and agreements that are the subject of such indemnification claim shall survive with respect to such claim notice until it is finally and fully resolved. The Parties expressly agree that the provisions of this Section 8.01 shall operate as a contractual statute of limitations.

(b) Seller Indemnification. From and after the Closing, subject to the further provisions of this Article VIII, Seller shall indemnify, defend and hold harmless Buyer and its officers, managers, members, employees, agents and representatives (collectively, “Buyer Indemnified Parties”) from and against any Loss actually incurred or suffered by Buyer Indemnified Parties to the extent arising out of or related to (i) the breach of any representation or warranty made by Seller in this Agreement or in any Conveyance Document at the Closing Date; (ii) the breach or failure by Seller to perform, or cause to be performed, any covenant or obligation to be performed by it hereunder, or (iii) any Excluded Liability.

(c) Buyer Indemnification. From and after the Closing, subject to the further provisions of this Article VIII, Buyer shall indemnify, defend, and hold harmless Seller and its officers, directors, trustees, equity holders, employees, agents and representatives (collectively, “Seller Indemnified Parties”) from and against any Loss actually incurred or suffered by Seller Indemnified Parties to the extent arising out of or related to: (i) the breach of any representation or warranty made by Buyer in this Agreement or in any Conveyance Document at the Closing Date, (ii) the breach or failure by Buyer to perform, or cause to be performed, any of covenant or obligation to be performed by it hereunder, or (iii) any Assumed Liability.

(d) Notification of Claim. A Person that may be entitled to indemnification hereunder (the “Indemnified Party”) shall promptly notify the Party or Parties liable for such

indemnification (the “Indemnifying Party”) in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to a right of indemnification hereunder (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a “Third Party Claim”), describing in reasonable detail the facts and circumstances with respect to the subject matter of such claim or demand; provided, however, that the failure to provide such notice shall not release the Indemnifying Party from its obligations under this Article VIII except to the extent that the Indemnifying Party is actually prejudiced by such failure.

Section 8.02 Indemnification Procedures.

(a) Third Party Claim. Upon receipt of notice of a claim for indemnity from an Indemnified Party pursuant to Section 8.01(d), the Indemnifying Party shall have the right to assume the defense and control any Third Party Claim, but shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense; provided that if (i) the Indemnifying Party and the Indemnified Party are both named parties to the proceedings and, in the reasonable opinion of counsel to the Indemnified Party, representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them, or (ii) in the reasonable opinion of counsel to the Indemnified Party, such Third Party Claim involves the potential imposition of criminal liability on the Indemnified Party, then, in each such case, the applicable Indemnified Parties shall be entitled to participate in any such defense with one separate counsel at the reasonable expense of the Indemnifying Party. The Indemnifying Party shall select counsel of recognized standing and competence after consultation with the Indemnified Party and shall take all reasonably necessary steps in the defense or settlement of such Third Party Claim. The Indemnifying Party shall be authorized to consent to a settlement of, or the entry of any judgment arising from, any Third Party Claim, without the consent of any Indemnified Party, provided that the Indemnifying Party shall (A) pay or cause to be paid all amounts arising out of such settlement or judgment concurrently with the effectiveness of such settlement, (B) not encumber any of the material assets of any Indemnified Party or agree to any restriction or condition that would apply to or materially adversely affect any Indemnified Party or the conduct of any Indemnified Party’s business, (C) obtain, as a condition of any settlement or other resolution, a complete release of any Indemnified Party potentially affected by such Third Party Claim, and (D) ensure that the settlement does not include any admission of wrongdoing or misconduct.

(b) Non-Third Party Claims. In the event any Indemnifying Party receives a notice of a claim for indemnity from an Indemnified Party pursuant to Section 8.01(d) that does not involve a Third Party Claim, the Indemnifying Party shall notify the Indemnified Party within thirty (30) days following its receipt of such notice if the Indemnifying Party disputes its liability to the Indemnified Party under this Article VIII. If the Indemnifying Party does not so notify the Indemnified Party, then the claims specified by the Indemnified Party in such notice shall be conclusively deemed to be a liability of the Indemnifying Party under this Article VIII, and the Indemnifying Party shall pay the amount of such liability to the Indemnified Party on demand or, in the case of any notice in which the amount of the claim (or any portion of the claim) is estimated, on such later date when the amount of such claim (or such portion of such claim) becomes finally determined. If the Indemnifying Party has timely disputed its liability with respect to such claim as provided above, then the Indemnifying Party and the Indemnified Party shall resolve such dispute in accordance with Section 10.07.

Section 8.03 Net Recovery. With respect to each indemnification obligation contained herein or in any Conveyance Document, all Losses shall be net of any third-party insurance proceeds that have been recovered by the Indemnified Party in connection with the facts giving rise to the right of indemnification.

Section 8.04 No Consequential Damages. In no event shall a Party be liable for any consequential, special, indirect, incidental or punitive damages, lost profits or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, or similar items arising out of or related to this Agreement, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability, except, in each case, any such damages actually paid to any un-Affiliated claimant in respect of a Third Party Claim paid in accordance with this Agreement.

Section 8.05 Maximum Liability. Notwithstanding anything else in this Agreement to the contrary, the maximum liability of Seller to Buyer under this Agreement shall be the amount of the Purchase Price paid to and received by Seller under this Agreement.

Section 8.06 Exclusive Remedy. Subject to the next sentence, and except as provided in Section 10.11 and in the event of fraud in connection with this Agreement, following the Closing, the indemnification provisions of this Article VIII shall be the sole and exclusive remedies of the Parties for any Losses or otherwise that each may suffer or incur or become subject to, as a result of, or in connection with any breach of any representation or warranty in this Agreement by the other Party or any failure by the other Party to perform or comply with any covenant or agreement herein. Notwithstanding anything herein to the contrary, no breach of any representation or warranty or any covenant or agreement contained in this Agreement shall give rise to any right on the part of either Party hereto to rescind this Agreement or any of the transactions contemplated hereby.

ARTICLE IX TERMINATION

Section 9.01 Termination. This Agreement may be terminated, and the transactions contemplated hereby abandoned, at any time prior to the Closing as follows:

- (a) by mutual written consent of Seller and Buyer;
- (b) by Buyer, if there shall be a breach or violation of any representation or warranty or covenant or agreement contained in this Agreement that would result in a failure of a condition set forth in Section 7.02 and which breach has not been cured (to the extent necessary to avoid a failure of such condition) prior to the date that is thirty (30) days from the date that Seller is notified in writing by Buyer of such breach; provided that Buyer shall not have a right to terminate this Agreement under this Section 9.01(b) if Buyer has breached or violated any of its representations, warranties or agreements contained in this Agreement and such breach or violation would have resulted in a failure of a condition set forth in Section 7.01;
- (c) by Seller, if there shall be a breach or violation of any representation or warranty or covenant or agreement contained in this Agreement that would result in a failure of a condition set forth in Section 7.01 and which breach has not been cured (to the extent necessary to avoid a failure of such condition) prior to the date that is thirty (30) days from the date that Buyer is notified in writing by Seller of such breach; provided that Seller shall not have a right to

terminate this Agreement under this Section 9.01(c) if Seller has breached or violated any of its representations, warranties or agreements contained in this Agreement and such breach or violation would have resulted in a failure of a condition set forth in Section 7.02; and

(d) by Buyer or Seller, if a Governmental Authority of competent jurisdiction shall have enacted, enforced or entered any Law, or a final non-appealable Order of any Governmental Authority of competent jurisdiction shall be in effect, that materially prohibits or restrains the consummation of the transactions contemplated by this Agreement.

Without limiting the foregoing, in the event the NYPSC (i) declines to approve the transfer of the Purchased Assets hereunder and/or the Project Land Rights under the Easement Agreement pursuant to Section 70 of the New York Public Service Law within one (1) year from the Section 70 Filing Date; or (ii) approves either such transfer with one or more conditions that are not acceptable to either Party, in its sole discretion (the “Affected Party”), or to both Parties; or (iii) rejects either such transfer within one (1) year from the Section 70 Filing Date, then this Agreement shall terminate automatically and both Parties shall be released from all duties and obligations created herein, except for any obligations that, pursuant to the express provisions hereof, survive the termination or cancellation of this Agreement; provided, however, that any termination pursuant to clause (ii) shall require written notification by the Affected Party to the other Party within ten (10) Business Days of its receipt of such conditions.

Section 9.02 Notice of Termination. Any Party desiring to terminate this Agreement pursuant to Section 9.01 shall give written notice of such termination to the other Party pursuant to Section 10.01. Section 9.03 Effect of Termination. In the event this Agreement is terminated pursuant to Section 9.01 prior to the Closing, this Agreement shall forthwith become void and there shall be no liability on the part of any Party, except that the provisions of Section 6.03, Article VIII, this Section 9.03 and Article X shall survive termination; provided, however, that nothing herein shall relieve either Seller or Buyer from liability for any willful breach of, or willful failure to perform its obligations under, this Agreement.

Section 9.04 Extension; Waiver. At any time prior to the Closing, either Seller or Buyer may (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties contained in this Agreement or in any document delivered pursuant hereto or (c) waive compliance with any of the agreements or conditions contained herein (but such waiver of compliance with such agreements or conditions shall not operate as a waiver of, or estoppels with respect to, any subsequent or other failure). Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver.

ARTICLE X MISCELLANEOUS

Section 10.01 Notices. Any notice, request, instruction or other communication to be given to a Party pursuant to this Agreement shall be in writing signed by or on behalf of the Party giving it and may be served by hand delivery, courier, email, facsimile (with confirmation of transmission) or by prepaid recorded airmail delivery to the address of the Party to receive it set forth below (or to such other address as such Party shall have specified by a notice given to the other in accordance with this Section 10.01). Any notice shall be deemed to have been duly served: (a) when delivered, if sent by hand delivery or courier; (b) at the time of transmission, if sent by

email or facsimile; and (c) upon receipt, if sent by prepaid recorded airmail delivery or regulated airmail post on receipt; provided that any notice received on a day that is not a Business Day, or after 5:00 p.m. (New York City time) on a Business Day, shall be deemed to be received on the next following Business Day. Each Party to whom a communication is sent hereunder has the obligation to accept delivery of such communication. Such communications, to be valid, must be addressed as set forth below:

If to Seller, to:

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003
Attn: Walter Alvarado, Vice President
Email: Alvaradow@coned.com

With a copy to:

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003
Attn: Michelle Hyland, Associate General Counsel, Commercial Transactions
Email: Hylandm@coned.com

If to Buyer, to:

New York Transco LLC
One City Centre, Suite 300
Hudson, New York 12435
Attn: Victor Mullin, President
Email: Victor.Mullin@NYTransco.com

With a copy to:

Kathleen Carrigan
General Counsel, New York Transco LLC
One City Centre, Suite 300
Hudson, New York 12435
Email: Kathleen.Carrigan@NYTransco.com

Section 10.02 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced under any Law, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any Party. 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 in a mutually acceptable manner in order that the transactions contemplated by this Agreement be consummated as originally contemplated to the greatest extent possible.

Section 10.03 Entire Agreement. This Agreement and the Conveyance Documents constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior agreements, undertakings and understandings, both written and oral, with respect to such subject matter.

Section 10.04 Assignment. This Agreement may not be assigned without the prior written consent of Seller and Buyer. This Agreement shall be binding upon, shall inure to the benefit of, and shall be enforceable by, the Parties and their permitted successors and assigns. Any merger, conversion or consolidation of a Party by operation of law shall not constitute an assignment under this Agreement.

Section 10.05 No Third-Party Beneficiaries. Except as provided in Article VIII with respect to Seller Indemnified Parties and Buyer Indemnified Parties, this Agreement is for the sole benefit of the Parties and their permitted successors and assigns and nothing herein or in any Conveyance Document, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever.

Section 10.06 Amendment. No provision of this Agreement may be amended, supplemented or modified except by a written instrument signed by all Parties.

Section 10.07 Dispute Resolution Process. Except with respect to any request for equitable relief (including interim relief) by either Party on or prior to the Closing Date, any dispute, controversy or claim arising out of or relating to this Agreement or any Conveyance Document (a “Dispute”) shall be resolved in accordance with the procedures set forth in Exhibit C attached hereto. Until completion of such procedures, no Party may take any action to force a resolution of a Dispute by any judicial or similar process, except to the extent necessary to (i) avoid expiration of a claim or (ii) obtain interim relief, including injunctive relief, to preserve the status quo or prevent irreparable harm.

Section 10.08 Governing Law. This Agreement and the rights of the Parties shall be governed by and construed in accordance with the laws of the State of New York without giving effect to any choice of Law of conflict of Law rules or provisions (whether of the State of New York or of any other jurisdiction) that would cause the application of Laws of any jurisdiction other than the State of New York.

Section 10.09 Submission to Jurisdiction, Service of Process. Each Party irrevocably and unconditionally (a) consents to submission to the exclusive jurisdiction of the courts of the State of New York located in New York County and of the federal courts of the United States of America located in the State of New York, County of New York (the “New York Courts”), for any action, claim, complaint, investigation, petition, suit or other proceeding, whether in contract or tort, in law or equity arising out of or relating to this Agreement (“Action”), (b) agrees not to commence any Action except in such New York Courts and in accordance with the provisions of this Agreement, (c) agrees that service of any process, summons, notice, or document by U.S. registered mail or as otherwise provided in this Agreement shall be effective service of process for any Action brought in any such New York Court, (d) waives any objection to the laying of venue of any Action in the New York Courts and (e) agrees not to plead or claim in any such court that any such Action brought in any New York Court has been brought in an inconvenient forum.

Section 10.10 Waiver of Jury Trial. EACH PARTY HEREBY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION.

Section 10.11 Specific Performance. The Parties agree that the failure of any Party to perform its agreements hereunder, including its failure to take all actions as are necessary on its part to consummate the transactions contemplated hereby, will cause irreparable injury to the other Party, for which damages, even if available, will not be an adequate remedy. Accordingly, each Party consents to the issuance of injunctive relief by any court of competent jurisdiction to compel performance of such Party's obligations and to the granting by any such court of the remedy of specific performance of its obligations hereunder, in addition to any other rights or remedies available hereunder or at law or in equity.

Section 10.12 Headings; Construction. The descriptive headings of the various Articles and Sections of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement. For purposes of this Agreement, except as otherwise expressly provided herein or the context otherwise requires, (i) the terms "hereof", "herein", "hereunder", "hereby", "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision; (ii) the words "include", "includes" and "including" shall be deemed to be modified by the words "without limitation", unless otherwise specified; (iii) references to any applicable Law means such applicable Law as lawfully amended, modified, codified, replaced re-enacted and in effect from time to time; (iv) words in the singular or plural also include the plural or singular, respectively; and (v) references in this Agreement to any Article, Section, paragraph, Schedule, Exhibit or Appendix means the Article, Section, paragraph, Schedule, Exhibit or Appendix to this Agreement, unless otherwise specified.

Section 10.13 Counterparts. This Agreement and the Conveyance Documents may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement and any Conveyance Document by facsimile or by electronic .pdf shall be as effective as delivery of a manually executed counterpart of any such agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto executed this Agreement by their duly authorized representatives on the date and year first written above.

NEW YORK TRANSCO, LLC

By: Paul Haering
Name: Paul Haering
Title: Vice President, Capital Investments

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: Walter Alvarado
Name: Walter Alvarado
Title: Vice President, Systems and Transmission Operations

Schedule 2.01(a)

Transmission Lines and Transmission Line Facilities

As part of the Purchased Assets sold under the Agreement, Seller hereby sells to Buyer a segment of Seller's Transmission Lines 91 and 92 extending from Seller's Pleasant Valley substation to Buyer's new Van Wagner substation. Purchased Assets sold to Buyer under this Agreement shall also include the Transmission Line Facilities that consist of (i) two (2) overhead transmission lattice steel structures identified as K389 and K390, which are located in the town of Pleasant Valley in Dutchess County, within the Hudson Valley of New York, and (ii) those items of equipment, including connectors, line conductors, shield wires, jumper loops, insulators, counterpoise cables and other ancillary equipment that are part of the aforementioned Transmission Lines.

The Transmission Line Facilities are detailed as follows:

- 1) Tower K389 (approx. Latitude, Longitude Coordinates – 41.740039, -73.837084);
- 2) Tower K390 (approx. Latitude, Longitude Coordinates – 41.742473, -73.841528);
- 3) 2-795 ACSR conductors from towers: K389 to K390, K389 to TTN3 and K389 to TTN4;
- 4) Partial conductor spans for Transmission Lines 91 and 92 west of tower K390 to adjacent tower owned and located on Niagara Mohawk ROW (approx. demarcation point starting coordinate at Northwesterly corner N58°14'42"W running east along S16°26'51"W to point S58°14'42"E);
- 5) Shield wires (2) consisting of a 9/16" 7#5AL conductors from tower K390 to tower K389; and
- 6) Partial shield wires spans for Transmission Lines 91 and 92 west of tower K390 to adjacent tower owned and located on Niagara Mohawk ROW.

As part of the Purchased Assets sold under the Agreement, on or prior to the Closing Date Seller will provide Buyer with (i) drawings (including structure grounding drawings), plans, designs and other documents that are exclusively related to the Purchased Assets and available to Seller on or prior to the Closing Date; and (ii) inspection/ maintenance records that are exclusively related to the Purchased Assets or the commercial operation of the Purchased Assets and available to Seller on or prior to the Closing Date.

Note: The dead-end structures identified as TTN3 and TTN4 are located within the property of the Seller's Pleasant Valley substation and are owned by Seller. These structures are Excluded Assets. Without limiting the foregoing, Seller retains all ownership rights in and to all disconnect switches, ground switches and auxiliary equipment within the Pleasant Valley substation.

Schedule 2.01(b)

Assumed Contracts

Site License Agreement (“License Agreement”), dated June 12, 2001, by and between Seller and Independent Wireless One Leased Realty Corporation (“Licensee”) for space on Seller’s transmission tower K-389.

Buyer hereby acknowledges that Seller has terminated the License Agreement pursuant to that certain letter dated October 29, 2021 from Seller to Licensee.

In the event that as of the Closing Date Licensee fails to remove, at its sole cost and expense, its equipment and personalty from Seller’s premises per the terms and conditions of the License Agreement, on the terms and subject to the conditions of this Agreement, at the Closing, Seller shall assign to Buyer all rights, title and interests of Seller to the License Agreement and Buyer shall assume and become responsible for, and from and after the Closing, Buyer shall pay, discharge or perform when due, as appropriate, all Liabilities of Seller in respect of the License Agreement.

Schedule 2.01(d)

Permits

None.

Schedule 4.03(a)

Consents and Approvals

The transfers of the Purchased Assets hereunder and the Project Land Rights under the Easement Agreement are subject to the approval of the NYPSC under Section 70 of the New York State Public Service Law.

Schedule 4.07(b)

None (as of the date of this Agreement).

In the event that as of the Closing Date Licensee fails to remove, at its sole cost and expense, its equipment and personalty from Seller's premises per the terms and conditions of the License Agreement and consequently Licensee is in violation of said License Agreement, such violation would not reasonably be expected to have a material adverse effect on the rights, claims and warranties under such Assumed Contract to be assigned to and assumed by Buyer in accordance with this Agreement.

Schedule 7.01(d)

Other Required Approvals

None.

Schedule 7.02(d)

Other Required Approvals

None.

Exhibit A

FORM OF BILL OF SALE

THIS BILL OF SALE (“Bill of Sale”) is hereby executed and delivered as of ____ ____, 20[___] by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a New York corporation, having its principal office at 4 Irving Place, New York, NY 10003 (“Seller”) in favor of NEW YORK TRANSCO, LLC (“Buyer”), a New York limited liability company, having its principal office at 1 Hudson City Center, Hudson, NY 12534.

WHEREAS, pursuant to that certain Asset Purchase Agreement, dated as of April 14, 2022, by and between Seller and Buyer (the “Purchase Agreement”), Seller agreed to sell and transfer, and Buyer agreed to purchase and accept, the Purchased Assets (as defined in the Purchase Agreement), in each case on the terms and subject to the conditions set forth therein; and

WHEREAS, Seller now desires to transfer to Buyer, and Buyer desires to accept transfer of, the Purchased Assets.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in said Purchase Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The foregoing recitals are hereby incorporated in this Bill of Sale.
2. The transfer of the Purchased Assets from Seller to Buyer is subject to the terms and conditions of the Purchase Agreement, which terms and conditions shall survive the delivery of this Bill of Sale.
3. As of the date hereof, Seller hereby transfers to Buyer all of its rights, title, interests and obligations in and to the Purchased Assets, and Buyer hereby accepts such transfer and assumes and shall perform all obligations and liabilities of Seller with respect to the Purchased Assets.

This Bill of Sale shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereunder.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and Buyer have executed this Bill of Sale on the day and year first above written.

SELLER:

CONSOLIDATED EDISON COMPANY OF NEW YORK,
INC.

By: _____
Name: _____
Title: _____

BUYER:

NEW YORK TRANSCO, LLC

By: _____
Name: _____
Title: _____

Exhibit B

FORM ASSIGNMENT AND ASSUMPTION OF CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS (“Assignment”) is entered into as of ____ ____, 20[___] by and between CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a New York corporation, having its principal office at 4 Irving Place, New York, NY 10003 (“Assignor”) and NEW YORK TRANSCO, LLC, a New York limited liability company, having its principal office at 1 Hudson City Center, Hudson, NY 12534 (“Assignee”).

1. Reference to Agreement. Reference is made to that certain Asset Purchase Agreement dated as of April 14, 2022 (“Asset Purchase Agreement”), by and between Assignor and Assignee, pursuant to which Assignor has agreed to assign, transfer and convey to Assignee, and Assignee has agreed to assume, accept and take from Assignor, those certain Contracts, as set forth on Exhibit A, attached hereto and made a part hereof. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Asset Purchase Agreement.

2. Assignment. For good and valuable consideration received by Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby grants, transfers, assigns and delivers to Assignee all of the rights, title and interests of Assignor in and to each of the Contracts.

3. Assumption. Assignee hereby acknowledges receipt of each of the Contracts and accepts the assignment of each of the Contracts. Assignee hereby assumes, and agrees to be bound by, all of the covenants, agreements and obligations of Assignor under each of the Contracts, on and after the Closing Date.

4. Binding Effect. This Assignment shall inure to the benefit of, and be binding upon, each of the parties hereto and their respective successors and assigns.

5. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereunder.

6. Counterparts. This Assignment may be executed in counterparts and by each party hereto on a separate counterpart, all of which when so executed shall be deemed to be an original, and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Assignment by facsimile or email transmission shall be effective as delivery of a manually executed counterpart of this Assignment. In the case of any electronic delivery by a party, such party shall thereafter deliver an originally executed signature page to the other parties benefited hereby, but the failure of any such delivery shall not affect the validity or binding effect of this Assignment, the parties expressly waiving any such defense.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment on the day and year first above written.

ASSIGNOR:

CONSOLIDATED EDISON COMPANY OF NEW YORK,
INC.

By: _____
Name: _____
Its: _____

ASSIGNEE:

NEW YORK TRANSCO, LLC

By: _____
Name: _____
Its: _____

EXHIBIT A

SCHEDULE OF CONTRACTS

Site License Agreement (“License Agreement”), dated June 12, 2001, by and between Assignor and Independent Wireless One Leased Realty Corporation for space on Assignor’s transmission tower K-389.

Exhibit C

Dispute Resolution Process

Section 1.1 Negotiation; Mediation.

(a) The Parties to any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination or validity hereof or the transactions contemplated hereby (a “Dispute”) shall seek to resolve such Dispute by negotiations among the Senior Executives of each relevant Party. Such Senior Executives shall negotiate for a reasonable period of time to settle such Dispute after receipt by a Party of written notice of such Dispute (“Dispute Notice”); provided that (i) such reasonable period shall not, unless otherwise agreed by the relevant Parties in writing, exceed twenty (20) days from the time of receipt of the Dispute Notice and (ii) the relevant employees from the applicable Parties (or their Affiliates) with knowledge and interest in the Dispute shall first have tried to resolve the differences between or among the Parties before Senior Executives shall be required to engage in negotiations in accordance with this Section 1.1(a). If a Senior Executive or interested Party intends to be accompanied by outside legal counsel at any meeting regarding a Dispute, such Party shall give the other Parties to such Dispute at least two (2) Business Days’ written notice thereof, and in such event each other Party to the Dispute shall be entitled to be accompanied by outside legal counsel at any such meeting. Within ten (10) days of receipt of the Dispute Notice, the receiving Party or Parties shall submit to the other Party or Parties a written response. The Dispute Notice and the response shall each include a statement of the Party’s position, a general summary of the arguments supporting that position, the name and title of the Senior Executive who will represent the Party and any other Person(s) who will attend settlement meetings.

(b) In the event of any Dispute with respect to which a Dispute Notice has been delivered in accordance with this Section 1.1, and if mediation proceedings are initiated pursuant to Section 1.2, within sixty (60) days following receipt of the Dispute Notice (i) the relevant Parties shall not assert the defenses of statute of limitations and laches with respect to the period beginning after the date of receipt of the Dispute Notice and (ii) any contractual time period or deadline under this Agreement to which such Dispute relates occurring after the Dispute Notice is received shall not be deemed to have passed until such Dispute has been resolved. Nothing said or disclosed, nor any document produced, in the course of any negotiations, conferences and discussions in connection with efforts to settle a Dispute that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose in any suit, but shall be considered as to have been disclosed for settlement purposes.

Section 1.2 Non-binding Mediation.

(c) If any Dispute has not been resolved for any reason after fifteen (15) days have elapsed from the receipt by a Party of a Dispute Notice, such Dispute may, on the written request (a “Mediation Request”) of a Party thereof, be referred to non-binding mediation pursuant to the Commercial Mediation Rules (the “Rules”) of the AAA then in effect. The Parties shall attempt to agree on a mediator for a period of fifteen (15) days following a Party’s receipt of a Mediation Request. If the Parties fail timely to agree on a mediator, any Party may request that the AAA appoint a mediator.

(d) If a Dispute is not resolved for any reason within sixty (60) days of receipt of the Mediation Request, any Party thereto may bring suit on the Dispute in accordance with Section 10.09 of the Agreement.