

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Joint Petition of Holtec Indian Point 2, LLC; Holtec Indian Point 3, LLC; and Consolidated Edison Company of New York, Inc. for an Order Approving a Proposed Transfer Pursuant to Section 70 of the New York Public Service Law

Case 24-E-_____

Exhibit A

Asset Purchase and Sale Agreement
(dated November 29, 2023)

ASSET PURCHASE AND SALE AGREEMENT

by and among

HOLTEC INDIAN POINT 2, LLC

and

HOLTEC INDIAN POINT 3, LLC

as Sellers,

and

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

as Buyer

dated as of November 29, 2023

TABLE OF CONTENTS

	<u>Page</u>
1. DEFINITIONS.....	1
1.1 Definitions.....	1
2. PURCHASE AND SALE.....	6
2.1 Purchase and Sale of Assets.....	6
2.2 Excluded Assets	6
2.3 Assumed Liabilities	6
2.4 Excluded Liabilities	7
2.5 Purchase Price.....	7
2.6 Closing Date.....	7
3. REPRESENTATIONS AND WARRANTIES OF BUYER.....	7
3.1 Organization.....	7
3.2 Authority	8
3.3 Consents and Approvals	8
3.4 Broker’s Fees	8
3.5 Legal Proceedings.....	8
3.6 Compliance with Laws	8
4. REPRESENTATIONS AND WARRANTIES OF SELLERS.....	9
4.1 Organization.....	9
4.2 Authority	9
4.3 No Violation; Required Filings and Consents	9
4.4 Broker’s Fees	9
4.5 Legal Proceedings.....	10
4.6 Compliance with Laws	10
4.7 Title of Purchased Assets.....	10
4.8 Condition of Purchased Assets	10
4.9 Environmental Matters.....	10
4.10 Contracts, Permits, and Licenses	10
5. ADDITIONAL AGREEMENTS.....	11
5.1 Access to Equipment and Information.....	11
5.2 Taxes.	11
5.3 Additional Agreements	12
5.4 Publicity	12
5.5 Other Actions by Parties	12
5.6 Interim Operating Covenants.....	12
5.7 Buyer’s Ownership after the Closing.....	13
5.8 Approvals.....	13
5.9 [Intentionally Omitted]	13

TABLE OF CONTENTS
(continued)

	<u>Page</u>
5.10 Modifications to Easement Agreement.....	13
6. CONDITIONS PRECEDENT	13
6.1 Conditions to Each Party’s Obligations.....	13
6.2 Conditions to the Obligations of Buyer	14
6.3 Conditions to the Obligations of Sellers	14
6.4 Frustration of Closing Conditions.....	15
7. MISCELLANEOUS	15
7.1 Expenses	15
7.2 Notices	15
7.3 Interpretation.....	16
7.4 Exhibits	17
7.5 Counterparts.....	17
7.6 Entire Agreement.....	17
7.7 Governing Law; Submission to Jurisdiction.....	18
7.8 Severability	18
7.9 Assignment; Reliance of Other Parties	18
7.10 Amendment; Waiver	18
7.11 Specific Performance	19
7.12 Consents and Approvals	19
7.13 WAIVER OF JURY TRIAL.....	19
7.14 Disclaimer of Other Representations and Warranties.....	19
7.15 Nonrecourse	20
8. SURVIVAL; INDEMNIFICATION.	20
8.1 Survival.....	20
8.2 Indemnification by Sellers	20
8.3 Indemnification by Buyer	21
8.4 Limitations on Indemnification Obligations.....	21
8.5 Indemnification Procedures.	22
8.6 Exclusivity	23
9. TERMINATION.....	24
9.1 Termination.....	24
9.2 Process; Effect of Termination	24

TABLE OF CONTENTS
(continued)

Page

EXHIBITS

- Exhibit A: Purchased Assets
- Exhibit B: Disconnect Assets

ASSET PURCHASE AND SALE AGREEMENT

This ASSET PURCHASE AND SALE AGREEMENT (this “Agreement”), dated as of November 29, 2023 (the “Effective Date”), by and among Holtec Indian Point 2, LLC, a Delaware limited liability company (“Holtec IP2”), Holtec Indian Point 3, LLC, a Delaware limited liability company (“Holtec IP3,” together with Holtec IP2, “Sellers”), and Consolidated Edison Company of New York, Inc., a New York corporation (“Buyer”). Each of Holtec IP2, Holtec IP3, and Buyer are referred to individually as a “Party” and collectively as the “Parties”.

RECITALS:

WHEREAS, Sellers own the Indian Point Energy Center (“IPEC”);

WHEREAS, Buyer desires to purchase and assume, and Sellers desire to sell and assign, all of the Purchased Assets and the Assumed Liabilities (each as defined herein), upon the terms and conditions hereinafter set forth in this Agreement.

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:

1. DEFINITIONS

1.1 Definitions. As used in this Agreement, the following terms have the meanings specified in this Section 1.1:

“Action” shall mean any action, claim, complaint, petition, suit, investigation, injunction, order or proceeding by or before any court or other Governmental Authority or any arbitration proceeding.

“Affiliate” shall mean, with respect to any Person, any other Person controlling, controlled by or under common control with such Person. As used in this definition, “control” (including, with its correlative meanings, “controlled by” and “under common control with”) means the possession, directly or indirectly, of power to direct or cause the direction of the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise.

“Agreement” shall have the meaning ascribed thereto in the preamble.

“Assumed Liabilities” shall have the meaning ascribed thereto in Section 2.3.

“Business Day” shall mean any day other than (a) a Saturday or Sunday, or (b) a legal holiday in the State of New York.

“Buyer” shall have the meaning ascribed thereto in the recitals.

“Buyer Material Adverse Effect” means, with respect to Buyer, a change, effect, or event that has a material adverse effect on Buyer’s ability to consummate the transactions contemplated by this Agreement or perform its obligations hereunder or would reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this Agreement or prevent or materially impair or delay the ability of Buyer to perform its obligations under this Agreement.

“Closing” shall have the meaning ascribed thereto in Section 2.6.

“Closing Date” shall have the meaning ascribed thereto in Section 2.6.

“Conveyance Document” shall mean a bill of sale to be entered into and delivered at Closing in the form mutually agreeable to the Parties.

“Disconnect Assets” shall have the meaning ascribed thereto in Section 5.6(b).

“Effective Date” shall mean shall have the meaning ascribed thereto in the preamble to this Agreement.

“Encumbrances” means any and all liens, mortgages, deeds of trust, pledges, assessments, claims, security interests, options, warrants, purchase rights (including rights of first refusal, rights of first offer and any other preferential purchase rights), liens (statutory or otherwise), royalties, franchises, conditional and installment sales agreements, title retention agreements, easements, activity and use restrictions and limitations, exceptions, rights-of-way, deed restrictions, defects or imperfections of title, encumbrances and charges of any kind.

“ENIP2” shall mean Entergy Nuclear Indian Point 2, LLC, predecessor in interest to Holtec IP2 under the Existing Agreements.

“ENIP3” shall mean Entergy Nuclear Indian Point 3, LLC, predecessor in interest to Holtec IP3 under the Existing Agreements.

“Environmental Laws” means any federal, state and local Laws regarding pollution, contamination, protection of the environment or natural resources, or human health (as it relates to exposure to Hazardous Substances), the conservation and management of natural resources and wildlife, including Laws relating to the manufacture, processing, presence, distribution, use, treatment, storage, release, threatened release, transport, disposal or handling of Hazardous Materials. Notwithstanding the foregoing, “Environmental Laws” shall not include Nuclear Laws.

“Excluded Assets” shall have the meaning ascribed thereto in Section 2.2.

“Excluded Liabilities” shall have the meaning ascribed thereto in Section 2.4.

“Existing Agreements” shall have the meaning ascribed thereto in Section 7.6.

“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.

“Force Majeure Event” shall mean any act of God, hurricane, earthquake, tornado, flood or other natural or manmade disasters, epidemic, plague, pandemic (including the COVID-19 Virus) or other outbreak of illness or public health event.

“GAAP” shall mean generally accepted accounting principles and practices in effect from time to time within the United States applied consistently throughout the period involved.

“Good Utility Practices” shall mean any of the practices, methods and activities generally accepted in the electric utility industry in the region during the relevant period as good practices or any of the practices, methods or activities 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, expedition, the requirements of any Governmental Authority having jurisdiction and applicable Laws including Laws relating to the protection of public health and safety. Good Utility Practices are not intended to be limited to the optimal practices, methods or acts to the exclusion of all others, but rather to be practices, methods or acts generally accepted in the electric utility industry in the region.

“Governmental Authority” shall mean any United States or foreign, federal, state or local governmental commission, board, body, bureau, or other regulatory authority, agency, including courts and other judicial bodies, or any self-regulatory body or authority, including any instrumentality or entity designated to act for or on behalf of the foregoing.

“Governmental Order” means any judgment, decision, consent decree, injunction, ruling, writ or order of any Governmental Authority.

“Hazardous Substances” shall mean any (1) pollutant, waste, contaminant, or chemical, (2) industrial, radioactive, ignitable, corrosive, reactive, explosive, toxic or otherwise hazardous substance, waste or material, or any substance, waste or material having any constituent elements displaying any of the foregoing characteristics, or (3) substance, waste or material regulated under, or for which liability may arise under, any applicable Environmental Law, including without limitation those defined as “hazardous substances”, “hazardous constituents”, “extraordinarily hazardous substances”, “solid wastes”, “hazardous wastes”, “hazardous materials”, “extremely hazardous substances”, “extremely hazardous wastes”, “restricted hazardous materials”, “restricted hazardous wastes”, “toxic substances”, “controlled substances”, “toxic pollutants”, “contaminants” or “pollutants”, or words of similar import under Environmental Law. Hazardous Substances include, without limitation, any and all hazardous building materials, universal waste (including without limitation fluorescent lights, ballasts, switches, HVAC equipment and electrical components), asbestos containing material, lead or lead-containing materials (including lead paint), urea formaldehyde foam insulation, emerging contaminants (such as PFAS or PFOA), polychlorinated biphenyls (“PCBs”) (including caulking, glazing and other materials containing PCBs), mold, radon gas, petroleum or petroleum products, derivatives or byproducts, hydrocarbons, or related materials.

“IPEC” shall have the meaning ascribed thereto in the recitals.

“IP2 PSA” shall have the meaning set forth in Section 7.6.

“Interim Period” shall have the meaning set forth in Section 5.1(a).

“IRS” shall mean the Internal Revenue Service.

“Law” or “Laws” means all laws, rules, regulations, codes, statutes, ordinances, treaties, or Governmental Orders, including the common Law, Environmental Laws, and the rules and regulations of any self-regulatory organization, including NYISO and NPCC.

“Liability” and “Liabilities” shall mean any liability, debt, obligation, deficiency, Tax, penalty, assessment, fine, claim, cause of action or other loss, fee, cost or expense of any kind or nature whatsoever, whether asserted or unasserted, absolute or contingent, known or unknown, accrued or unaccrued, liquidated or unliquidated, and whether due or to become due and regardless of when asserted.

“Loss” shall mean all losses, claims, damages, fines, payments, Taxes, costs, and expenses (including costs and expenses of Actions, amounts paid in connection with any assessments, judgments, or settlements relating thereto, interest and penalties recovered by a third party with respect thereto and reasonable out-of-pocket expenses and fees of attorneys, accountants and other professional advisors and expert witnesses incurred in investigating, preparing for and defending against any such Actions or in enforcing a Party’s rights under this Agreement).

“Material Adverse Effect” shall mean a change, effect or an event that, individually or in the aggregate, negatively affects in a material respect the condition of the Purchased Assets, taken as a whole; provided, that none of the following shall constitute or be taken into account in determining whether there has been a Material Adverse Effect: (i) any change in the economy, financial, banking or credit markets, industries in which the Purchased Assets are located, (ii) any change in the market, demand, reliability or availability of electric generation, distribution, or transmission, (iii) any change in legal, regulatory, political, economic or business conditions, (iv) any change in Law, GAAP or regulatory accounting (or interpretation thereof), (v) the announcement of this Agreement or pendency or consummation of the transactions contemplated hereby, (vi) compliance by the Parties with the terms of, or the taking of any action required or expressly permitted by this Agreement, (vii) the permanent shutdown of IPEC, (viii) any act or omission of Buyer or its Affiliates, (ix) any change or event that Buyer had knowledge of at or prior to the Effective Date, or (x) any Force Majeure Event.

“NERC” shall mean the North American Electric Reliability Corporation.

“NPCC” shall mean the Northeast Power Coordinating Council, Inc.

“Nuclear Laws” shall mean the Atomic Energy Act of 1954, as amended (42 U.S.C. Section 2011 et seq.), the Price-Anderson Act (Section 170 of the Atomic Energy Act of 1954, as amended); the Energy Reorganization Act of 1974 (42 U.S.C. Section 5801 et seq.); Convention

on the Physical Protection of Nuclear Material Implementation Act of 1982 (Public Law 97-351; 96 Stat. 1663); the prohibition against nuclear enrichment transfers found in the Foreign Assistance Act of 1961 (22 U.S.C. Section 2151, 2799 aa et seq.); the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. Section 3201); the Low-Level Radioactive Waste Policy Act (42 U.S.C. Section 2021b et seq.); the Nuclear Waste Policy Act (42 U.S.C. Section 10101 et seq. as amended); the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Section 2021b, 471; and the Energy Policy Act of 1992 (4 U.S.C. Section 13201 et seq.) together with all rules, regulations and orders adopted under each of such statutes including Title 10 of the Code of Federal Regulations.

“NYISO” means the New York Independent System Operator.

“NYPSC” means the New York State Public Service Commission.

“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.

“Permits” shall mean any permits, licenses, franchises, registrations, authorizations, variances, and approvals obtained or required to be obtained from any Governmental Authority.

“Person” shall mean any individual, corporation, partnership, joint venture, association, trust, unincorporated organization or other legal entity or any Governmental Authority.

“Purchase Price” shall have the meaning ascribed thereto in Section 2.5.

“Purchased Assets” shall have the meaning ascribed thereto in Section 2.1.

“Release” shall mean a full release of any further obligations of Entergy International Holdings LTD LLC pursuant to that certain Guarantee Agreement between Entergy International Holdings LTD LLC, as guarantor, and Buyer, dated September 6, 2001, and termination of the same, in a form mutually acceptable to Sellers, Entergy International Holdings LTD LLC, and Buyer.

“Replacement Security” shall mean a parent guarantee, bond, letter of credit, or other form of acceptable financial security of even date herewith provided by Sellers or its Affiliate to replace the Guarantee Agreement between Entergy International Holdings LTD LLC, as guarantor, and Buyer, dated September 6, 2001.

“Representatives” shall mean the directors, managers, officers, employees, Affiliates, agents, investment bankers, financial advisors, attorneys, accountants, brokers, finders, consultants or representatives of Sellers and Buyer.

“Sellers” shall have the meaning ascribed thereto in the recitals.

“Sellers Material Adverse Effect” shall mean, with respect to Sellers, a change, effect or event that has a material adverse effect on Sellers’ ability to consummate the transactions contemplated by this Agreement or perform its obligations hereunder or would reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this

Agreement or prevent or materially impair or delay the ability of Sellers to perform its obligations under this Agreement.

“Tax” shall mean any and all taxes, customs, duties, tariffs, deficiencies, assessments, levies or other like governmental charges, including, income, gross receipts, excise, real or personal property, ad valorem, value added, estimated, alternative minimum, stamp, sales, withholding, social security, occupation, use, service, service use, license, net worth, payroll, franchise, transfer and recording taxes and charges, imposed by the IRS or any other taxing authority (whether domestic or foreign, including any state, county, local or foreign government or any subdivision or taxing agency thereof (including a United States possession)), whether computed on a separate, consolidated, unitary, combined or any other basis; and such term shall include any interest, fines, penalties or additional amounts attributable to, or imposed upon, or with respect to, any such amounts.

“Tax Return” shall mean any report, return, document, declaration, election or other information or filing required to be supplied to any taxing authority or jurisdiction (foreign or domestic) with respect to Taxes, including information returns and any documents with respect to or accompanying payments of estimated Taxes or requests for the extension of time in which to file any such report, return, document, declaration or other information.

“U.S.” shall mean the United States of America.

2. PURCHASE AND SALE

2.1 Purchase and Sale of Assets. On the terms and subject to the conditions of this Agreement, at the Closing, Buyer shall purchase, and Sellers shall sell, convey, assign, transfer and deliver to Buyer, free and clear of any Encumbrances pursuant to the Conveyance Document, all of the rights, titles and interests of Sellers in, to and under all of the assets attached hereto as Exhibit A (collectively, the “Purchased Assets”).

2.2 Excluded Assets. Notwithstanding any provision in Section 2.1 to the contrary, Sellers shall retain all of their respective rights, titles in interests in and to, and shall not be deemed to sell, convey, assign, transfer or deliver to Buyer, (x) the Disconnect Assets and (y) any other assets not set forth on Exhibit A (together, the “Excluded Assets”), which assets are expressly excluded from the transactions contemplated by this Agreement.

2.3 Assumed Liabilities. On the terms and subject to the conditions of this Agreement, effective as of the Closing, Buyer shall assume, agree to pay, perform and discharge when due any and all Assumed Liabilities. As used in this Agreement the “Assumed Liabilities” means any and all of the following Liabilities of Sellers:

- (a) all Liabilities to the extent arising from, or related to, the ownership, operation and maintenance of the Purchased Assets from and after the Closing;
- (b) all sales and transfer Taxes applicable to the sale of the Purchased Assets hereunder;

(c) all Liabilities for Taxes applicable to the Purchased Assets, if any, given the depreciated value of the assets, with respect to any period (or portion thereof) beginning after the Closing; and

(d) all Liabilities to the extent associated with the compliance with all Laws applicable to the Purchased Assets from and after the Closing, including NPCC and NERC standards.

2.4 Excluded Liabilities. Notwithstanding Section 2.3 above, Sellers shall retain, and shall be responsible for paying, performing and discharging when due (and Buyer shall not assume or have any responsibility for) any and all Excluded Liabilities. As used in this Agreement, “Excluded Liabilities” means any and all of the following Liabilities of Sellers, except to the extent such Liabilities are Assumed Liabilities:

(a) all Liabilities relating to or arising out of the Excluded Assets; and

(b) All Liabilities for Taxes applicable to the Purchased Assets, if any, with respect to any period (or portion thereof) ending on or before the Closing; and

(c) all Liabilities arising out of the ownership, operation, maintenance or condition of the Purchased Assets prior to the Closing.

2.5 Purchase Price. The aggregate purchase price for the Purchased Assets is an amount in cash equal to ten dollars (\$10.00) (the “Purchase Price”).

2.6 Closing Date. Subject to the terms and conditions of this Agreement, the closing of the transactions contemplated by this Agreement (the “Closing”) shall take place by remote exchange of electronic copies of the executed Conveyance Document at 10:00 a.m. (Eastern prevailing time) on that day that is no later than fifteen (15) Business Days following the satisfaction or waiver of the conditions to set forth in Article 6 (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfactions or waiver of such conditions), or at such other time or place as may be mutually agreed upon in writing by the Parties. The date of the Closing is herein referred to as the “Closing Date.” The Parties execution of the Conveyance Documents shall be the only requirement to memorialize the satisfaction or waiver of the conditions to Closing set forth herein.

3. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Sellers as follows:

3.1 Organization. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of New York. Buyer has all requisite corporate power and authority and all necessary governmental approvals to own, lease and operate all of its properties and assets and to carry on its business as it is now being conducted, except where the failure to have such governmental approvals would not reasonably be expected to result in a Buyer Material Adverse Effect.

3.2 Authority. Buyer has all requisite corporate power and authority to execute and deliver this Agreement and the Conveyance Documents and to consummate the transactions contemplated hereby and thereby and perform its obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and the Conveyance Documents and the approval of the consummation of the transactions contemplated hereby and thereby have been, and are, duly and validly authorized by all necessary corporate action of Buyer. No further corporate action (including any equity holder action) on the part of Buyer is necessary to authorize the execution, delivery and performance of this Agreement or the Conveyance Document or to consummate the transactions contemplated hereby and thereby. This Agreement has been, and the Conveyance Document will be at the Closing, duly executed and delivered at the Closing. Assuming the due authorization, execution and delivery of Sellers, this Agreement constitutes, and the Conveyance Document will constitute at the Closing, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their terms, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

3.3 Consents and Approvals. Except the NYPSC Approval, none of the execution, delivery or performance of this Agreement and the Conveyance Document by Buyer, the consummation by Buyer of the transactions contemplated hereby or thereby and compliance by Buyer with any of the provisions hereof or thereof will (i) conflict with or result in any breach of any provision of the organizational documents of Buyer, (ii) require any filing with, notice by, or Permits, authorization, consent or approval of, any Governmental Authority, (iii) result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) 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, lease, license, contract, agreement or other instrument or obligation to which Buyer is a Party or by which it or any of its properties or assets may be bound, or (iv) violate any Law or Governmental Order applicable to Buyer or any of its properties or assets, excluding from the foregoing clauses (ii), (iii) and (iv) such filings, notices, Permits, authorizations, consents, approvals, violations, breaches, defaults, rights or losses that would not, individually or in the aggregate, have a Buyer Material Adverse Effect.

3.4 Broker's Fees. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by Buyer or its Affiliates.

3.5 Legal Proceedings. There is no material Action pending or, to the knowledge of Buyer, threatened in writing against Buyer that seeks to enjoin, or would reasonably be expected to have the effect of preventing, making illegal, or otherwise interfering with, any of the transactions contemplated by this Agreement.

3.6 Compliance with Laws. Buyer is not in violation of any Law and no investigation with respect to Buyer by any Governmental Authority is pending or threatened, except for any violation or investigation that would not reasonably be expected to result in a Buyer Material Adverse Effect.

4. REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers hereby represent and warrant to Buyer as follows:

4.1 Organization. Sellers are limited liability companies duly formed, validly existing and in good standing under the state of their incorporation or formation. Sellers have all requisite entity power and authority and all necessary governmental approvals to own, lease and operate all of their respective properties and assets and to carry on their respective businesses as they are now being conducted, except where the failure to have such governmental approvals would not reasonably be expected to result in a Sellers Material Adverse Effect.

4.2 Authority. Sellers have all requisite entity power and authority to execute and deliver this Agreement and the Conveyance Document and to consummate the transactions contemplated hereby and thereby and perform their respective obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and the Conveyance Document and the approval of the consummation of the transactions contemplated hereby and thereby have been, and are, duly and validly authorized by all necessary entity action of Sellers. No further proceedings (including any equity holder action) on the part of Sellers are necessary to authorize the execution, delivery and performance of this Agreement or the Conveyance Document or to consummate the transactions contemplated hereby and thereby. This Agreement has been, and the Conveyance Document will be at the Closing, duly and validly executed and delivered by Sellers. Assuming due authorization, execution and delivery by Buyer, this Agreement constitutes, and the Conveyance Document will constitute at the Closing, valid and binding obligations of Buyer, enforceable against Sellers in accordance with their terms, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

4.3 No Violation; Required Filings and Consents. Except the NYPSA Approval, none of the execution, delivery or performance of this Agreement and the Conveyance Document by Sellers, the consummation by Sellers of the transactions contemplated hereby or thereby and compliance by Sellers with any of the provisions hereof or thereof will (i) conflict with or result in any breach of any provision of the organizational documents of Sellers, (ii) require any filing with, notice by, or Permits, authorization, consent or approval of, any Governmental Authority, (iii) result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) 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, lease, license, contract, agreement or other instrument or obligation to which Seller is a Party or by which it or any of its properties or assets may be bound, or (iv) violate any Law or Governmental Order applicable to Seller or any of its properties or assets, excluding from the foregoing clauses (ii), (iii) and (iv) such filings, notices, Permits, authorizations, consents, approvals, violations, breaches, defaults, rights or losses that would not, individually or in the aggregate, have a Sellers Material Adverse Effect.

4.4 Broker's Fees. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by Sellers or their Affiliates.

4.5 Legal Proceedings. There is no material Action pending or, to the knowledge of Sellers, threatened in writing against Sellers that seeks to enjoin, or would reasonably be expected to have the effect of preventing, making illegal, or otherwise interfering with, any of the transactions contemplated by this Agreement. Except for environmental matters, which are governed exclusively by Sections 4.3, 4.8, 4.9 and 4.10, there are no material civil, criminal or administrative actions, suits, claims, hearings, investigations or proceedings pending or, to the knowledge of Sellers, threatened in writing against Sellers relating to ownership, operation, or maintenance of the Purchased Assets.

4.6 Compliance with Laws. Except for environmental matters, which are governed exclusively by Sections 4.3, 4.8, 4.9 and 4.10, Sellers are not in violation of any Law relating to the Purchased Assets and no investigation with respect to Sellers by any Governmental Authority is pending or threatened relating to the ownership, operation or maintenance of the Purchased Assets.

4.7 Title of Purchased Assets. (a) Except for Sellers' obligations to Buyer pursuant to the Existing Agreements, Sellers own good title, free and clear of all Encumbrances to the Purchased Assets.

(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.

4.8 Condition of Purchased Assets. (a) The tangible property included in the Purchased Assets are in good operating condition and repair except ordinary routine maintenance and repairs.

(b) 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 Practices.

4.9 Environmental Matters. Except for a potential release or threatened release from 138kV Oil Bus-Tie Breaker 'BT2-6' (138kV Yard) (a) Sellers are in compliance with Environmental Laws applicable to the Purchased Assets; (b) Sellers have not received written notice from a Governmental Authority or other Person that it is in violation of any Environmental Law with respect to the Purchased Assets; (c) there are no material Actions, Losses, Liabilities, causes of action, proceedings, or investigations pending or, to Sellers' knowledge, threatened under or relating to any Environmental Law; and (d) there are no spills or releases of hazardous substances in connection with the Purchased Assets that have not been remediated in accordance with Environmental Laws. This Section 4.9 and Sections 4.3, 4.8 and 4.10 contain the exclusive representations and warranties of Sellers concerning environmental matters.

4.10 Contracts, Permits, and Licenses. Except for any regulatory requirements that may govern operation of the Purchased Assets (to the extent they are considered FERC or NERC jurisdictional assets), there are not any material contracts or Permits required for the ownership and use of to the Purchased Assets as conducted prior to Closing.

5. ADDITIONAL AGREEMENTS

5.1 Access to Equipment and Information.

(a) Buyer acknowledges that it has access to the Purchased Assets, which are located on Buyer's property, under the terms of the Existing Agreements, and Buyer has or will have the opportunity to undertake reasonable inspection and investigation as necessary to satisfy Buyer as to the condition of the Purchased Assets and Sellers' compliance with the representations and warranties set forth herein. Subject to and in compliance with all applicable Laws and the Existing Agreements, during the period between the Effective Date and the earlier of the Closing Date or the date this Agreement is terminated pursuant to Section 9.1 (the "Interim Period"), Sellers shall afford to the Representatives of Buyer, reasonable access during ordinary business hours, upon reasonable notice, and subject to approval in advance by Sellers, to any and all records in the possession or under the control of Sellers that relate to the Purchased Assets, in order to facilitate an orderly transition of the Purchased Assets; provided, however, that (i) any such access shall be conducted in such a manner as not to interfere unreasonably with the operation of IPEC, (ii) Sellers and their Affiliates shall not be obligated to supply Buyer with any information that they are legally or contractually prohibited from supplying (including, that supply such information that would cause Sellers or their Affiliate to breach any contract or Agreement or result in potential legal liability to Sellers or their Affiliates or their respective representatives), unless such obligations can be satisfied through the execution of an appropriate non-disclosure or confidentiality agreement.

(b) Intentionally Omitted

(c) Subject to and in compliance with all applicable Laws and subject to and in compliance with any policies of each Party implemented in connection with a Force Majeure Event, after the Closing Date, where there is a legitimate business purpose, each Party shall provide the other Party with access, upon prior reasonable written request specifying the need therefore, during regular business hours, to (i) the officers and employees of such Party and (ii) the books of account and records of such Party, but, in each case, only to the extent directly relating to the operation, design or maintenance of the Purchased Assets or Liabilities relating thereto, and the other Party and its Representatives shall have the right to make copies of such books and records at their sole cost; provided, however, that the foregoing right of access shall not be exercisable in such a manner as to interfere unreasonably with the normal operations and business of such Party and shall not provide access to either Party to information which is subject to the attorney-client privilege or constitutes attorney work product.

5.2 Taxes.

(a) Buyer shall pay all federal, state and local sales, stamp, documentary, recording, value added, registration, conveyance and real estate and other transfer Taxes due as a result of the purchase, sale or transfer of the Purchased Assets in accordance herewith, whether imposed by Law on Sellers or Buyer.

(b) Sellers and Buyer agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Purchased

Assets and Assumed Liabilities (including access to books and records) as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the preparation for any audit by any taxing authority, and the prosecution or defense of any action, suit or proceeding, claim, arbitration, litigation or investigation relating to any Tax. Any expenses incurred in furnishing such information or assistance shall be borne by the Party requesting it.

5.3 Additional Agreements. Each Party hereto shall execute such documents and other instruments and take such further actions as may reasonably be required or desirable to carry out the provisions hereof and consummate the transactions contemplated by this Agreement.

5.4 Publicity. During the Interim Period, neither Party shall issue any press release or public announcement concerning this Agreement or the Transaction or make any other public disclosure containing or pertaining to the terms of this Agreement without obtaining the other Party's prior written approval, which approval will not be unreasonably withheld or delayed, unless, in the judgment of the disclosing Party, disclosure is otherwise required by Law or by the applicable rules of any stock exchange on which Sellers, Buyer, or their Affiliates list securities; provided, that, to the extent any disclosure is required by Law or stock exchange rule, the Party intending to make such disclosure shall use its commercially reasonable efforts consistent with Law or stock exchange rule to consult with Sellers or Buyer, as applicable, with respect to the text thereof.

5.5 Other Actions by Parties. Buyer and Seller shall each refrain (and shall use its commercially reasonable efforts to cause its Affiliates to refrain) from taking, directly or indirectly, any action that would reasonably be expected to result in any condition set forth in Section 6 not being satisfied.

5.6 Interim Operating Covenants.

(a) During the Interim Period, and except (x) as required by Law, (y) is reasonably required in connection with a Force Majeure Event, or (z) with the written consent of Buyer (such consent not to be unreasonably withheld, delayed or conditioned), Sellers shall maintain the Purchased Assets in the ordinary course of business and in accordance with Good Utility Practices taking into account the planned decommissioning of IPEC.

(b) Sellers will disconnect and remove the Disconnect Assets promptly in accordance with the schedule indicated in Exhibit B, subject to Buyer providing the requisite access approvals and the Parties coordinating certain of these activities with Buyer's outage schedule. The Parties acknowledge and agree that the scheduling of Outages is governed by the NYISO and not within the control of Buyer, therefore neither Party shall not be subject to any claims for delay or interference as a result of outage scheduling or in the event that dates requested by Seller or Buyer for an outage are not approved. Sellers' maintenance obligations for any Seller-owned assets on Buyer's property, including any present or future remediation, will continue to be governed by the Existing Agreements. Notwithstanding the foregoing, all Disconnect Assets will be removed and remediated in accordance with Environmental Law as soon as reasonably practicable, but in no case later than June 30, 2024, the only exception being the unavailability of required outages.

(c) Sellers will investigate and remediate, if necessary, in accordance with Environmental Law, the matter set forth Section 4.9 with respect to the Purchased Assets promptly following the Effective Date, which remediation shall be completed during the Interim Period, subject to Buyer providing the requisite access approvals.

(d) During the Interim Period, the Parties will coordinate to facilitate the transfer of operational control to the Purchased Assets from Sellers to Buyer as of or immediately after Closing.

5.7 Buyer's Ownership after the Closing. Notwithstanding anything to the contrary in any Existing Agreement: (a) at the Closing, Buyer shall assume all ownership, operation and maintenance, and compliance obligations with respect to the Purchased Assets consistent with Good Utility Practices; (b) from and after the Closing, Buyer shall be responsible for the costs of complying with all applicable Laws as they may apply to the Purchased Assets from and after the Closing Date; (c) from and after the Closing, Buyer and Seller shall timely share any data or information regarding the Purchased Assets required under Environmental Laws and shall cooperate with one another with respect to any action taken or proposed by any Governmental Authority with respect to IPEC or the Purchased Assets.

5.8 Approvals. 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

5.9 [Intentionally Omitted].

5.10 Modifications to Easement Agreement and Ground Lease. During the Interim Period, to the extent necessary, the Parties will cooperate in good faith to develop mutually acceptable changes to the Easement Agreement and/or Ground Lease to terminate any of Sellers' easements, tenancies or licenses granted thereunder that are unnecessary following removal and transfer of the Disconnect Assets and Purchased Assets located on Buyer's property.

6. CONDITIONS PRECEDENT

6.1 Conditions to Each Party's Obligations. The respective obligation of each Party to effect the transactions contemplated hereby shall be subject to the fulfillment (or waiver in writing if permissible under applicable Law) at or prior to the Closing of the following conditions:

(a) Approvals. The NYPSC Approval shall have been obtained and remain in full force and effect and the Final NYPSC Approval Date shall have occurred.

(b) No Injunctions or Restraints; Illegality. No Law or Governmental Order shall be in effect which prohibits or makes illegal the consummation of the transactions contemplated hereby.

(c) [Intentionally Omitted].

(d) Transfer of Operational Control. As of or immediately after Closing, Buyer shall have assumed operational control of the Purchased Assets, including making any physical modifications to the substation or Purchased Assets needed to do so.

6.2 Conditions to the Obligations of Buyer. The obligation of Buyer to effect the transactions contemplated hereby is also subject to the satisfaction (or waiver in writing if permissible under applicable Law), at or prior to the Closing, of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Sellers contained in this Agreement (without giving effect to any limitation as to “materiality”, “Sellers Material Adverse Effect” or “Material Adverse Effect” or similar terms set forth therein) shall be true and correct as of the Closing Date, as though made at and as of the Closing Date (except to the extent such representations and warranties expressly relate to a specific date, in which case such representations and warranties shall be true and correct as of such date), except for changes permitted by this Agreement or where the failure to be so true and correct does not have, and would not reasonably be expected to have, a Sellers Material Adverse Effect.

(b) Performance of Obligations of Sellers. Sellers shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Replacement Security and Release. The Replacement Security and Release have been mutually agreed upon, executed, and delivered.

(d) No Material Adverse Effect. As of the Closing Date, no Material Adverse Effect shall exist.

6.3 Conditions to the Obligations of Sellers. The obligation of Sellers to effect the transactions contemplated hereby is also subject to the satisfaction (or waiver in writing if permissible under applicable Law), at or prior to the Closing, of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Buyer contained in this Agreement (without giving effect to any limitation as to “materiality” or “Buyer Material Adverse Effect” or similar terms set forth therein) shall be true and correct as of the Closing Date, as though made at and as of the Closing Date (except to the extent such representations and warranties expressly relate to a specific date, in which case such representations and warranties shall be true and correct as of such date), except for changes permitted by this Agreement or where the failure to be so true and correct does not have, and would not reasonably be expected to have, a Buyer Material Adverse Effect.

(b) Performance of Obligations of Buyer. Buyer shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Replacement Security and Release. The Replacement Security and Release have been mutually agreed upon, executed, and delivered.

6.4 Frustration of Closing Conditions. Neither Sellers nor Buyer may rely on the failure of any condition set forth in Sections 6.1, 6.2 or 6.3, as the case may be, to be satisfied if such failure was caused by such Party's failure to perform any of its obligations under this Agreement, to act in good faith or to use its commercially reasonable efforts to consummate the transactions contemplated by this Agreement.

7. MISCELLANEOUS

7.1 Expenses. Except as may otherwise be agreed to hereunder or in other writing by the Parties (including in the Existing Agreements), all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses. Notwithstanding the foregoing, Buyer shall be responsible for any transfer Taxes pursuant to Section 5.2(a).

7.2 Notices. All notices or other communications hereunder shall be in writing and shall be deemed given if delivered personally, sent by nationally recognized overnight courier (providing proof of delivery) or mailed by prepaid registered or certified mail (return receipt requested) or by electronic mail transmission addressed as follows:

If to Buyer, to:

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003
Attn: Angel L. Cardoza, Vice President
Email: Cardozaa@coned.com

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

If to Sellers, to:

Holtec Indian Point 2, LLC
Holtec Indian Point 3, LLC
c/o Holtec International
One Holtec Boulevard
Camden, NJ 08104
Attn: General Counsel
Email: w.gill@holtec.com

or such other address as shall be furnished in writing by a Party, and any such notice or communication shall be deemed to have been given as of the date so mailed or otherwise sent as provided above; provided that any notice received by electronic mail or otherwise at the addressee's location on any Business Day after 5:00 p.m. (addressee's local time) shall be deemed to have been received at 9:00 a.m. (addressee's local time) on the next Business Day.

7.3 Interpretation. In construing this Agreement, together with the Exhibits hereto, the following principles shall be followed:

(a) the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter;

(b) except as otherwise set forth herein, references to Articles, Sections, Exhibits and other subdivisions refer to the Articles, Sections, Exhibits and other subdivisions of this Agreement;

(c) the terms "herein," "hereof," "hereby," "hereunder" and other similar terms refer to this Agreement as a whole and not only to the particular Article, Section or other subdivision in which any such terms may be employed;

(d) the terms "includes" and "including" and their syntactical variants mean "includes, but is not limited to" and "including, without limitation," and corresponding syntactical variant expressions;

(e) when calculating the period of time before which, within which or after which any act is to be done or step taken pursuant to this Agreement, (i) the date that is the reference date in calculating such period shall be excluded and (ii) if the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day. All references in this Agreement to a number of days are to such number of calendar days unless Business Days are specified;

(f) references to any Person (including any Governmental Authority) shall include such Person's predecessors, successors and permitted assigns unless otherwise specifically provided herein;

(g) examples shall not be construed to limit, expressly or by implication, the matter they illustrate;

(h) references herein to any Law or to any contract or other agreement shall be to such Law, contract or other agreement as amended, supplemented or modified from time to time unless otherwise specifically provided herein;

(i) the Parties have participated jointly in negotiating and drafting this Agreement, and in the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement;

(j) “To the knowledge of Sellers,” “to Sellers’ knowledge” or any similar phrases mean the actual (and not the constructive or imputed) knowledge of Sellers’ site personnel, Jason Day, and other members of Holtec Decommissioning International, LLC senior management; and

(k) “To the knowledge of Buyer,” “to Buyer’s knowledge” or any similar phrase means the actual (and not constructive or imputed) knowledge of Buyer’s senior management.

7.4 Exhibits. The Exhibits to this Agreement are hereby incorporated and made a part of this Agreement and are an integral part of this Agreement.

7.5 Counterparts. This Agreement may be executed in counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Party, it being understood that both Parties need not sign the same counterpart.

7.6 Entire Agreement. This Agreement, together with the Exhibits hereto, the Conveyance Document and any documents delivered by the Parties in connection herewith constitutes the entire agreement and supersede all prior agreements and understandings, both written and oral, between the Parties hereto with respect to the subject matter hereof. Notwithstanding the foregoing, and except as expressly set forth in this Agreement, nothing in this Agreement is intended to modify or alter (i) the Generation Plant and Gas Turbine Asset and Purchase and Sale Agreement, dated November 9, 2000, by and between ENIP2 and Buyer (“IP2 PSA”), (ii) Indian Point Continuing Site Agreement, dated November 9, 2000, by and between Buyer and ENIP2 (“IP2 Continuing Site Agreement”), (iii) Declaration of Easement Agreement dated, September 6, 2001 (“Easement Agreement”), (iv) the GT Site Ground Lease, dated September 6, 2001 (the “Ground Lease”) (v) Guarantee Agreement between Entergy International Holdings LTD LLC, as guarantor and Buyer, dated September 6, 2001, as may be terminated pursuant to the Release, (vi) any other Ancillary Agreement (as defined in the IP2 PSA), or (vii) that Indian Point 3 Interconnection Agreement (“IP3 Interconnection Agreement”), dated November 9, 2000, by and between ENIP3 and Buyer, ((i) through (vii), collectively the “Existing Agreements”) all of which agreements or documents shall remain in full force and effect. Without limiting the foregoing, the transfer of the Purchased Assets shall not constitute the permanent cessation of interconnection functions in respect of the transmission system for purposes of Section 5.01(b)(ii) of the IP2 Continuing Site Agreement or Section 5.01(b)(ii) of the IP3 Interconnection Agreement.

7.7 Governing Law; Submission to Jurisdiction. This Agreement, and all causes of action of Sellers or Buyer (whether in contract or in tort or otherwise, or whether at law or equity) that is based on, arise out or relate to this Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York. Each of the Parties irrevocably and unconditionally agrees that any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by the other Party hereto or its successors or assigns, shall be brought and determined exclusively in a federal or state court located in Manhattan, New York City, New York. Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement, (a) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 7.7, (b) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), and (c) to the fullest extent permitted by the applicable Law, any claim that (i) the suit, action or proceeding in such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

7.8 Severability. In the event that anyone or more provisions of this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, by any court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement and the Parties shall use their commercially reasonable efforts to substitute a valid, legal and enforceable provision which, insofar as practicable, implements the original purposes and intents of this Agreement.

7.9 Assignment; Reliance of Other Parties. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by either of the Parties hereto in whole or in part (whether by operation of Law or otherwise) without the prior written consent of the other Party and any attempt to make any such assignment without such consent shall be null and void. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns. This Agreement (including the documents and instruments referred to herein) is not intended to confer upon any Person other than the Parties hereto any rights or remedies under or by reason of this Agreement.

7.10 Amendment; Waiver. Subject to compliance with applicable Law, this Agreement may be amended or otherwise modified by the Parties; provided that any such amendment or modification shall be effective only if it is set forth in an instrument in writing executing by each

Party. by an instrument in writing signed by both of them. Otherwise, this Agreement may not be amended, supplemented or otherwise modified. No waiver by any of the Parties of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No waiver by any of the Parties of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and executed by the Party to be bound by such waiver.

7.11 Specific Performance. 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. Accordingly, Buyer or Sellers, as the case may be, shall be entitled to seek an injunction or injunctions, without the posting of any bond, to prevent breaches of this Agreement by the other Party and to enforce specifically the terms and provisions of this Agreement, in addition to any other remedy to which such Party is entitled at Law or in equity.

7.12 Consents and Approvals. For any matter under this Agreement requiring the consent or approval of any Party to be valid and binding on the Parties hereto, such consent or approval must be in writing.

7.13 WAIVER OF JURY TRIAL. THE PARTIES HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVE THEIR RIGHT TO TRIAL BY JURY IN ANY JUDICIAL PROCEEDING IN ANY COURT RELATING TO ANY ACTION ARISING OUT OF, RELATING TO OR IN CONNECTION WITH THIS AGREEMENT OR ANY RELATED AGREEMENT (INCLUDING ANY EXHIBIT HERETO AND THERETO) OR THE BREACH, TERMINATION OR VALIDITY OF SUCH AGREEMENTS OR THE NEGOTIATION, EXECUTION OR PERFORMANCE OF SUCH AGREEMENTS.

7.14 Disclaimer of Other Representations and Warranties.

(a) Buyer acknowledges and agrees that it has conducted its own independent investigation, review and analysis of the Purchased Assets, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of Sellers for such purpose. Buyer acknowledges and agrees that in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer has relied solely upon its own investigation and the express representations and warranties of Sellers set forth in Section 4 of this Agreement. Except for the specific representations and warranties expressly made by Sellers in Section 4 of this Agreement, Buyer specifically disclaims that it is relying upon or has relied upon any other representations or warranties (whether expressed, implied or statutory) or other information that may have been made by or on behalf of Sellers or any other Person, and acknowledges and agrees that Sellers have specifically disclaimed and do hereby specifically disclaim any such other representation or warranty made by Sellers or any other Person. Buyer acknowledges and agrees that, except for the representations and warranties expressly made by Sellers in Section 4 of this Agreement, Sellers make no representations and warranties as to the accuracy or completeness of any

information provided to Buyer, and that except to the extent specifically set forth in this Agreement, Buyer is acquiring the Purchased Assets on an “AS IS, WHERE IS” basis.

(b) The provisions of this Section 7.14 have been negotiated by the Parties after due consideration and are intended to be a complete exclusion and negation and non-reliance of any representations and warranties, whether expressed, implied or statutory, other than those representations and warranties expressly set forth in this Agreement or any Related Agreement.

7.15 Nonrecourse. Except with respect to and without limiting the obligations of a Party under any Related Agreement, no Representative of a Party or their Affiliates shall have any liability to any other Party under this Agreement, including for the payment of any amounts hereafter owing or for the performance of any obligations in this Agreement, and each Party hereto agrees that all obligations of a Party under this Agreement shall be obligations of such Party solely and recourse in enforcing such obligations shall only be had against the assets of such Party and not against such Party’s Affiliates or its and their Representatives.

8. SURVIVAL; INDEMNIFICATION.

8.1 Survival.

(a) Notwithstanding anything to the contrary in this Agreement or the Conveyance Document, (i) the representations and warranties of the Parties, or Actions with respect thereto, shall survive one year from the Closing, except with respect to the representations and warranties in Section 4.9 which shall survive for a period of three years and (ii) none of the covenants and agreements of the Parties contained in this Agreement which, by their terms, are to be performed or complied with in their entirety at or prior to the Closing, or Actions with respect thereto, shall survive the Closing.

(b) All of the covenants and agreements of the Parties contained in this Agreement which, by their terms, are to be performed or complied with in whole or in part following the Closing, and all Actions with respect thereto, shall survive the period provided in such covenants and agreements, if any, or until performed in accordance with their respective terms, plus an additional 30 days.

(c) Notwithstanding the foregoing, any Action pursuant to Section 8.1(b) asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of such survival period and such claims shall survive until finally resolved.

(d) The Parties agree that the provisions of this Section 8.1 are intended to be a contractual statute of limitations.

8.2 Indemnification by Sellers. Subject to the terms and conditions of this Section 8, from and after the Closing, Sellers shall indemnify Buyer against, and shall hold Buyer harmless from and against, any and all Actions, Losses or Liabilities incurred or sustained by, or imposed upon, Buyer based upon, arising out of, with respect to or by reason of:

(a) any breach of any representation, warranty, covenant or other agreement of Sellers under this Agreement, to the extent the same survives the Closing pursuant to Section 8.1; or

(b) the Excluded Liabilities.

8.3 Indemnification by Buyer. Subject to the terms and conditions of this Section 8, from and after the Closing, Buyer shall indemnify Sellers against, and shall hold Sellers harmless from and against, any and all Actions, Losses or Liabilities incurred or sustained by, or imposed upon, Sellers based upon, arising out of, with respect to or by reason of:

(a) any breach of any representation, warranty, covenant or other agreement of Buyer under this Agreement, to the extent the same survives the Closing pursuant to Section 8.1; or

(b) the Assumed Liabilities.

8.4 Limitations on Indemnification Obligations.

(a) The party making a claim under this Section 8 is referred to as the “Indemnified Party”, and the party against whom such claims are asserted under this Section 8 is referred to as the “Indemnifying Party”. The indemnification obligations of Sellers and Buyer under Sections 8.2 and 8.3, respectively, shall be subject to the limitations set forth in this Section 8.4.

(b) Payments by an Indemnifying Party pursuant to Section 8.2 or Section 8.3, as the case may be, in respect of any Action, Loss or Liability shall be limited to the amount of any liability or damage that remains after deducting therefrom any actual insurance proceeds and any indemnity, contribution or other similar payment actually received by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Actions, Losses or Liabilities prior to seeking indemnification under this Agreement.

(c) No Indemnifying Party pursuant to Section 8.2 or Section 8.3, as the case may be, shall be required to pay any Tax gross-up as a result of a Loss by the Indemnified Party.

(d) In no event shall any Indemnifying Party be liable to any Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity except to the extent such damages are paid by an Indemnified Party to a third party in accordance with this Agreement.

(e) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

(f) Neither Party shall be liable under this Section 8 for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of such

Party contained in this Agreement if the other Party had actual knowledge of such inaccuracy or breach prior to the Closing.

(g) Except to the extent expressly set forth herein, nothing in this Agreement shall modify the Parties respective indemnification obligations with respect to the Purchased Assets and Assumed Liabilities and Excluded Liabilities as such obligations may be defined by or limited under the Existing Agreements.

(h) Notwithstanding anything contains in this Section 8.4, nothing contained herein shall be deemed to diminish or waive the terms of any other separate agreement between Seller and Buyer, including but not limited to the Existing Agreements.

8.5 Indemnification Procedures.

(a) Third Party Claims. If any Indemnified Party receives notice of the assertion or commencement of any Action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing (a “Third-Party Claim”) against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third-Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume the defense of any Third-Party Claim at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel, and the Indemnified Party shall cooperate in good faith in such defense. In the event that the Indemnifying Party assumes the defense of any Third-Party Claim, subject to Section 8.5(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third-Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right, at its own cost and expense, to participate in the defense of any Third-Party Claim with counsel selected by it subject to the Indemnifying Party’s right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to Section 8.5(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. Sellers and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third-Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third-Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 8.5(b). If a firm offer is made to settle a Third-Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third-Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within ten days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third-Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third-Party Claim, the Indemnifying Party may settle the Third-Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 8.5(a) it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any claim by an Indemnified Party on account of a Loss or Liability which does not result from a Third-Party Claim (a “Direct Claim”) shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss or Liability that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty days after its receipt of such notice to respond in writing to such Direct Claim. During such thirty-day period, the Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party’s investigation by giving such information and assistance (including access to the Indemnified Party’s premises and personnel and the right to examine and copy any non-privileged accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such thirty-day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

(d) Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

8.6 Exclusivity. From and after the Closing, and except as provided in Section 7.11, the indemnities set forth in this Article 8 shall be the sole and exclusive remedies of the Parties and their Representatives and the Affiliates with respect to any inaccuracy in any representation

or warranty, misrepresentation, breach of warranty or nonfulfillment or failure to be performed of any covenant or agreement contained in this Agreement.

9. TERMINATION

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

(a) by either Party in the event that any Law restrains, enjoins or otherwise prohibits or makes illegal the sale of the Purchased Assets pursuant to this Agreement and such Law has become final and non-appealable;

(b) by either Party if the other Party has materially breached any of its representations, warranties, covenants or agreements hereunder, where the effect of such breach would be to cause the conditions to the obligation to consummate the Closing of the terminating Party not to be satisfied, and such breach has not been cured within sixty (60) days following written notification thereof;

(c) by mutual written consent of Sellers and Buyer; or

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

9.2 Process; Effect of Termination. This Agreement may be terminated only pursuant to Section 9.1. In order to terminate this Agreement, the Party desiring to terminate this Agreement shall give written notice of such termination to the other Party pursuant to Section 7.2 specifying the provisions of this Agreement pursuant to which the Agreement is being terminated. If this Agreement is validly terminated pursuant to Section 9.1, there will be no liability or obligation on the part of Sellers or Buyer (or any of their respective Representatives or Affiliates) in respect of this Agreement, provided that (a) this Section 9.2, and Article 7 (Miscellaneous) (to the extent applicable to such surviving sections) will survive any such termination and (b) subject to the limitations of this Section 9.2, each Party shall continue to be liable for any willful or intentional breach of the representations, warranties, covenants or other agreements under this Agreement by it occurring prior to such termination.

10. COUNTERPARTS; ELECTRONIC SIGNATURES

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.

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


HOLTEC INDIAN POINT 2, LLC

By: 

Name: Kelly Trice

Title: President Nuclear Generation and Decommissioning


HOLTEC INDIAN POINT 3, LLC

By: 

Name: Kelly Trice

Title: President Nuclear Generation and Decommissioning

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: 

Name: Steve Parisi

Title: Senior Vice President, Central Operations

Exhibit A

Purchased Assets

- (A) 345kV Breaker '1' (345kV South Ring)
- (B) Motor-Operated Breaker Disconnect Switch '1A' and associated Ground Switch '1', including associated support structure (345kV South Ring)
- (C) Motor-Operated Breaker Disconnect Switch '1B' and associated Ground Switches '3' & '5', including associated support structure (345kV South Ring)
- (D) 345kV Breaker '3' (345kV South Ring)
- (E) Manual Breaker Disconnect Switch '3A' and associated Ground Switch '9', including associated support structure (345kV South Ring)
- (F) Motor-Operated Breaker Disconnect Switch '3B' and associated Ground Switch '11', including associated support structure (345kV South Ring)
- (G) Motor-Operated Feeder Disconnect Switch 'F1-3' and associated Ground Switch '7', including Transmission Tower #12 (345kV South Ring)
- (H) Motor-Operated Feeder Disconnect Switch 'F7-9' and Ground Switch '27' including Transmission Tower #32 (345kV North Ring)
- (I) Bus work in Bus Section '1-3' including, but not limited to CCPD's, PT's, surge arresters, bus insulators, associated support structures, etc. (345kV South Ring)
- (J) Transmission Tower #31 for Feeder W95 (345kV North Ring)
- (K) Transmission Tower #11 for Feeder W96 (345kV South Ring)
- (L) Transmission Tower #21 for Feeder 95332 (345kV South Ring)
- (M) Transmission Tower 'E' for Feeder 95331 (138kV Yard)
- (N) Switchgear Cubicle for 13kV Breaker position F2-3 (13kV Yard)
- (O) Switchgear Cubicle for 13kV Breaker position F3-1 (13kV Yard)

Exhibit B

Disconnect Assets

To commence removal promptly following execution, based on availability of outages by the Buyer's system (estimated completion Spring 2024):

- (A) Combination Revenue CT/PT units on Feeders W95 (345kV North Ring)
- (B) Combination Revenue CT/PT units on Feeders 95332 (345kV South Ring)
- (C) Combination Revenue CT/PT units on Feeders 95331 (138kV Yard)
- (D) Feeder 95332 Potheads, Ground Switch '43' and associated support structure (345kV South Ring)
- (E) Feeder 95332 Potheads, Ground Switch '14' and associated support structure (138kV Yard)
- (F) Motor-Operated Disconnect Switch 'F3A' and Ground Switch '12', including associated support structure (138kV Yard)
- (G) 138kV Oil Bus-Tie Breaker 'BT2-6' (138kV Yard)
- (H) Motor-Operated Disconnect Switch 'BT2-6E' and Ground Switch '7', including associated support structure (138kV Yard)
- (I) Motor-Operated Disconnect Switch 'BT2-6W' and Ground Switches '9' & '11', including associated support structure (138kV Yard)

Removal by end of 2023 (except switchgear estimated to be removed by Spring 2024):

- (J) All equipment in the "Gas Turbine Generator Area" that is owned by Seller, including, but not limited to, gas turbines, oil tanks, transformers, etc. Switchgear and the building associated with the Buyer-owned network protector will not be removed during this timeframe, based on availability of outages by the Buyer system.

To commence removal promptly following execution; based upon availability of outages by the Buyer's system (estimated Spring 2024):

- (K) Underground transmission line portion for Feeder 95332 (between 138kV Yard & 345kV South Ring), to the extent on Buyer's switchyard
- (L) Portion of overhead transmission line for Feeder W95 (345kV North Ring) on Buyer's switchyard
- (M) Portion of overhead transmission line portion for Feeder 95332 (345kV South Ring) on Buyer's
- (N) Portion of overhead transmission line for Feeder W96 (345kV South Ring) on Buyer's switchyard
- (O) Portion of overhead transmission line for Feeder 95331 (138kV Yard) on Buyer's switchyard