

ATTACHMENT B

**THIRD AMENDED AND COMPOSITE AGREEMENT BETWEEN
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.**

AND

**THE NEW YORK POWER AUTHORITY
FOR THE OPERATION AND MAINTENANCE
OF THE FACILITIES ASSOCIATED WITH
ASTORIA ANNEX SUBSTATION
345 KV GAS-INSULATED SUBSTATION**

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THIRD AMENDED AND COMPOSITE AGREEMENT (this "**Third Composite Agreement**") made on the 5th day of December, 2025 by and between Consolidated Edison Company of New York, Inc. ("**Con Edison**"), a corporation organized and existing under the law of the State of New York and having its principal place of business at 4 Irving Place in the City of New York, New York, and the New York Power Authority (the "**Power Authority**"), a corporate municipal instrumentality and political subdivision of the State of New York having an office at 123 Main Street in the City of White Plains, New York. Con Edison and the Power Authority are sometimes collectively referred to herein as the "**Parties**" and, individually, as a "**Party**".

WHEREAS, Con Edison owns a certain parcel of real property in the City of New York, County of Queens, known as Tax Lot 1, in Block 850, on the Tax Map of the City of New York, County of Queens ("**Con Edison Lands**");

WHEREAS, the Power Authority owns a 345 kV gas-insulated substation known as the Astoria Annex Substation (the "**Astoria Annex Substation**"), which was substantially constructed by Astoria Energy II LLC ("**AE II**") in January 2011 and located on the Con Edison Lands pursuant to an easement grant originally between Con Edison and AE II recorded on January 14, 2011 as CRFN 2011000019424 in the Queen's County Clerk's Office (the "**Original Grant**"), and the Astoria Annex Substation and the Original Grant was assigned by AE II to the Power Authority pursuant to an Assignment and Assumption of Easement Grant recorded on March 9, 2011 as CRFN 2011000086409;

WHEREAS, in and around the same time, Power Authority and AE II entered into an interconnection agreement that permits AE II to interconnect its approximate 500-Megawatt second power block (the "**Second Power Block**") from AE II's electric generating facility in Astoria, NY to the Astoria Annex Substation, as more particularly described therein ("**AE II Interconnection**");

WHEREAS, Astoria Energy II interconnected the Second Power Block to the Power Authority's existing Q35L & Q35M 345 kV transmission lines, which lines start at "**Con Edison's East 13th Street Substation**" (as defined in Article 1) (and which lines have associated dielectric oil cooling lines that enter the "**15th Street PURS**" and the "**15th Street Pressurization Plant**" (both as defined in Exhibit A-1)) and then such transmission and dielectric lines travel under and across the East River and enter and extend under, through and across the Con Edison Lands to manhole 19717, at which manhole, a portion of the dielectric oil cooling lines extend back onto the Power Authority Property (as hereinafter defined) to connect to the "**Astoria PURS**" and the "**Astoria Pressurization Plant**" (both as defined in Exhibit A-1), and, at which manhole, an extension of the Q35L & Q35M 345 kV transmission lines (and the associated dielectric oil cooling lines) extend under, through and across the Con Edison Lands to connect to the Astoria Annex Substation (the "**Extension**"); the Q 35L and Q 35M 345 kV transmission lines and the associated dielectric oil cooling lines between East 13th Street Substation and the Astoria Annex Substation, which includes the Extension generally described above, are hereinafter referred to collectively as the "**Q35L & Q35M Transmission Lines**";

WHEREAS, subject to certain conditions precedent and other terms, conditions, limitations and exclusions in the Existing Agreement (as defined below), Con Edison currently operates and maintains the "**Facility**" (as such term is further defined below), which is made up of

the Astoria Annex Substation, the Q35L and Q35M Transmission Lines, and certain associated equipment and facilities as currently set forth on **Exhibit A-1** (the "**Existing Equipment**") pursuant to an Agreement dated February 1, 2011, between Con Edison and the Power Authority (the "**Original Agreement**"), which Original Agreement was later amended by (i) a First Amendment dated June 23, 2011, (ii) a Second Amendment dated April 25, 2012, (iii) an Amended and Composite Agreement dated January 2013, and (iv) a Second Amended and Composite Agreement dated July 14, 2014¹ (the Original Agreement, as amended, is hereinafter referred to as the "**Existing Agreement**");

WHEREAS, the Facility did not include any portion of the overhead transmission line and related appurtenances which connect the Second Power Block to the first disconnect switch of the Astoria Annex Substation ("**Astoria Energy II's Generator Leads**");

WHEREAS, after March 1, 2011, the Power Authority requested that Con Edison operate and maintain the Facility for the Power Authority pursuant to the terms and conditions of the Original Agreement, but prior to Power Authority's satisfaction of certain Conditions Precedent (as defined in Section 4.1 of the Original Agreement);

WHEREAS, in connection with a project known as the Champlain Hudson Power Express Project (the "**CHPE Project**") described in the Certificate of Environmental Compatibility and Public Need issued by the New York State Public Service Commission on April 18, 2013 under Case 10-T-0139, all in furtherance of the goals of the Climate Leadership and Community Protection Act, and pursuant to that certain Amended and Restated Merchant Transmission Facility Interconnection Agreement among NYISO, the Power Authority, and CHPE LLC ("**CHPE**") dated July 8, 2024 (NYISO OATT Service Agreement No. 2710 (3 party), which is NYISO Queue No. 631 and Queue No. 887), which authorizes the interconnection of the CHPE Project with the Astoria Annex Substation, as may be amended and restated from time to time (the "**Interconnection Agreement**"), it is necessary for certain additional facilities, equipment and appurtenances to be constructed, installed, used, operated and maintained within the Astoria Annex Substation, as more particularly set forth in Appendix A to the Interconnection Agreement; provided however, for the purposes of this Third Composite Agreement, the facilities labeled in such Appendix A as the "Connecting Transmission Owner's Attachment Facilities" and "System Upgrade Facilities" (but excluding (i) any portion of Feeder Y19, (ii) "Developer's Attachment Facilities", and (iii) the Partial Interim RTU Modification (as hereinafter defined)) shall be hereinafter referred to collectively as the "**Additional Equipment**", which Additional Equipment is more generally described in the updated equipment list attached hereto as **Exhibit A-2** (the Existing Equipment and the Additional Equipment are collectively referred to herein as the "**Equipment**");

WHEREAS, the First Amendment to Easement Grant between Con Edison and the Power Authority recorded on March 3, 2025 as CRFN 2025000057595, grants the Power Authority the right and authority to install the Additional Equipment at the Astoria Annex Substation, among other rights and obligations, all as more fully described therein (the "**First Amendment**" which

¹ A corrected copy of the July 2014 version was refiled with FERC on December 9, 2014 due to a metadata error.

amends the Original Grant; as assigned and amended, referred to collectively herein as the **"Easement Grant"**);

WHEREAS, pursuant to the Interconnection Agreement and the Easement Grant, the Power Authority will perform, or cause to be performed, the design, construction and installation of the Additional Equipment, and, upon completion of the aforementioned design, construction and installation of the Additional Equipment, the Power Authority will test, commission, accept and assume ownership and control of the Additional Equipment;

WHEREAS, pursuant to the sole judgment and authority of the Power Authority, as owner of the Astoria Annex Substation, the Existing Equipment, the Additional Equipment, and the Q35L and Q35M Transmission Lines (all hereinafter collectively referred to as the **"Facility"**), and as further set forth in Section 3.1.7 below, the Power Authority determined that the CIP Security Designation (as defined in Section 1) of the Facility needed to change from Low to Medium in anticipation of the interconnection of the CHPE Project at the Astoria Annex Substation (the **"New CIP Security Designation"**);

WHEREAS, the Power Authority has requested that Con Edison undertake operation and maintenance of the Additional Equipment in addition to the rest of the Facility, subject to and in accordance with the terms, conditions, limitations and exclusions set forth in this Third Composite Agreement;

NOW THEREFORE, in consideration of the premises, mutual obligations and undertakings set forth herein (including the Recitals above), the Parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

Whenever used in this Third Composite Agreement with initial capitalization, the following terms shall have the meanings specified in this Article. Terms used in this Third Composite Agreement with initial capitalization that are not defined in this Article shall have the meanings specified in this Third Composite Agreement.

"Applicable Cyber Systems" shall have the meaning ascribed to it in the NERC Reliability Standards (as hereinafter defined).

"Applicable Legal Requirements" shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, including but not limited to **"Environmental Law"**, **"Environmental Permits"**, and **"Permits"** (each as defined herein). In the performance of the **"O&M Services"** (as defined in Section 4.3), Power Authority will comply with all New York City laws, rules and regulations that are applicable to the Power Authority and/or Con Edison. The Power Authority's compliance with New York City laws, rules and regulations is for the purpose of safeguarding the health, safety and welfare of any persons, the Con Edison Lands and any improvements thereon or thereunder, and is not to be construed as submission by the Power Authority to jurisdiction by New York City over the Power Authority.

“Backfeed” shall mean the supplying or transporting of electrical energy from the Con Edison’s transmission/distribution system to the Second Power Block.

“Breach” shall mean the failure of a Party to perform or observe any material term or condition of this Third Composite Agreement.

“Breaching Party” shall mean a Party that is in Breach of this Third Composite Agreement.

“Bulk Electric System (BES) Asset” shall have the meaning ascribed to it in the NERC Reliability Standards.

“Business Day” shall mean Monday through Friday, excluding federal holidays. **“Calendar Day”** shall mean any day including Saturday, Sunday or a federal holiday.

“CIP Security Designation” shall mean the classification assigned to the Facility under the applicable NERC Reliability Standards (as hereinafter defined), which determines the level of cybersecurity protections required based on the Facility’s impact on the bulk power system and governs the scope of compliance obligations, including physical and cyber protections, documentation, and operational controls applicable to the Facility; such designation may include, but is not limited to, Low, Medium, or High impact classifications, and shall be subject to change in accordance with updates to the NERC Reliability Standards.

“Con Edison Standards” means: all Con Edison instructions, specifications, rules, programs, guidelines, policies, practices, requirements and procedures issued by Con Edison, both orally and in writing, in the ordinary course of its business, as may be amended from time to time.

“Con Edison’s East 13th Street Substation” shall mean the Con Edison substation and associated appurtenances between Avenue C and the FDR (East River) Drive and between 13th and 14th Streets in New York City, NY.

“Con Edison Subcontractors” shall mean any and all contractors, subcontractors, agents, invitees, and any other person or entity working for or acting on behalf of Con Edison in connection with Con Edison’s obligations under this Third Composite Agreement who shall be fully insured, licensed and competent to do the work being undertaken.

“Date of Energization” is contemplated to have a phased-in approach for each portion/component of the Additional Equipment. Accordingly, **“Date of Energization”** means the first date that any applicable portion of the Additional Equipment is connected to the Con Edison transmission system (as applicable, the **“Energized Component(s)”**);

“Emergency” shall mean any condition or situation that, in Con Edison’s reasonable discretion, requires an emergent response at or near the Facility, the Astoria Complex and/or within Con Edison’s service territory, including without limitation: (i) conditions likely to endanger life or property, (ii) conditions likely to cause a material adverse effect on the security, integrity, or reliable operation of electric systems, transmission systems, the Facility, and/or any other equipment or facilities essential to maintaining overall system reliability, and (iii) any other condition or event likely to materially impact or threaten system operations or reliability.

“Environmental Laws” means: all current and future federal, state and local laws (including common law), treaties, regulations, rules, ordinances, codes, decrees, judgments, directives, orders (including consent orders), Environmental Permits, and obligations and other requirements imposed by any **“Governmental Authority”** (as defined herein), including New York State Department of Environmental Conservation (**“NYSDEC”**) Technical Administrative Guidance Memoranda and other guidance documents issued or published by any Governmental Authority, in each case, relating to pollution, protection of the environment, natural resources, or protection of human health and safety from conditions in the environment, the presence, **“Release”** (as defined herein) of, threatened Release of, or exposure to, **“Hazardous Substances”** (as defined herein), or to the generation, manufacture, processing, distribution, use, treatment, storage, transport, recycling or handling of, or arrangement for such activities with respect to, Hazardous Substances.

“Environmental Liabilities” means: all liabilities, obligations, damages, losses, claims, actions, suits, judgments, orders, fines, penalties, fees, expenses, and costs, relating to environmental conditions or activities, including (i) Remediation costs, engineering costs, environmental consultant and expert fees, laboratory fees, permitting fees, investigation costs, defense costs, and reasonable attorneys’ fees and expenses; (ii) any claims, demands, and causes of action relating to or resulting from any personal injury (including wrongful death), property damage (real or personal) or natural resource damage; and (iii) any penalties, fines or costs associated with the failure to comply with any Environmental Law.

“Environmental Permits” means: the permits, licenses, consents, approvals, manifests and other authorizations or certifications required by any Governmental Authority having jurisdiction with respect to Environmental Laws relating to the **“Remediation”** (as defined herein), construction, operations and activities of Con Edison and/or the Power Authority for the Facility and the Con Edison Lands.

“Good Industry Practice” means: any of the applicable acts, practices, rules, policies, regulations, or methods from time to time required by any **“Governmental Authority”** (defined below) or any organization with jurisdiction or authority in respect of the Con Edison Lands whether or not the party whose conduct is at issue is a member thereof, or by any other person acting pursuant to the authority of any such organization. If there are no such applicable acts, practices, rules, policies, regulations, or methods, then Good Industry Practice means: any of the applicable acts, practices, rules, policies regulations, or methods engaged in or approved by a significant portion of the electric utility industry in the United States at the relevant time, including, but not limited to, reliability, operating, planning, and engineering specifications, the Northeast Power Coordinating Council (**“NPCC”**), the North American Electric Reliability Corporation (**“NERC”**), the New York State Reliability Council (**“NYSRC”**), and the New York Independent System Operator (**“NYISO”**).

“Governmental Authority” means: any federal, state, or local government, or any court, board, agency, commission, office, or other authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city, or otherwise), specifically excluding the Power Authority, and in all cases whether now or hereafter in existence.

“Hazardous Substances” means: (i) any petroleum, petroleum products or byproducts, and all other regulated hydrocarbons (including without limitation, petrochemicals and crude oil), or any fraction thereof, coal ash, radon gas, radioactive materials, asbestos, asbestos-containing material, urea formaldehyde, polychlorinated biphenyls, chlorofluorocarbons, and other ozone-depleting substances; and (ii) any chemical, material, substance, product or waste (including thermal discharges and hazardous waste) or electromagnetic emissions that is prohibited, limited, or regulated by or pursuant to any Environmental Law.

“Manufacturer’s Specifications and Instructions” means: any written vendor /manufacturer standards, specifications, documents, manuals, handbooks, and instructions for all or any portion of the Facility provided by applicable vendor/manufacturer.

“NERC Reliability Standards” means: the reliability standards that are promulgated by the NERC, approved by the Federal Energy Regulatory Commission, and implemented by the NPCC, as may be amended from time to time.

“NPCC Criteria Requirements” or “NPCC Directories” means: the specific reliability requirements that are promulgated and implemented by the NPCC, for the design, operation and protection of the bulk power system, as may be amended from time to time.

“NPCC Regional Reliability Standards” means: the reliability standards that are promulgated and implemented by NPCC for the design, operation and protection of the bulk power system, as may be amended from time to time.

“Power Authority Property” means: all property interests, both real and personal, at the Astoria Complex located at 31-01 20th Avenue, Astoria, New York 11105, which are owned by the Power Authority, including but not limited to Block 850, Lot 100 and those property interests within the Con Edison Lands.

“Permits” means: all certificates, permits, licenses, consents, approvals, and other governmental authorizations (other than Environmental Permits) relating primarily to construction, operations and activities of Con Edison and/or the Power Authority for the Facility and the Con Edison Lands.

“Power Authority’s Contractors” means: except for Con Edison or any Con Edison Subcontractors, any and all of the Power Authority’s contractors, subcontractors, agents, invitees, and any other person or entity working for or acting on behalf of the Power Authority in connection with excluded services under this Third Composite Agreement or services outside the scope of this Third Composite Agreement.

“Preparatory Work and Services” shall have the meaning ascribed to it in Section 4.3.4.

“Release” means: any actual or threatened release, spill, emission, emptying, escape, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching, or migration into the environment or within any building, structure, facility, or fixture and/or the exacerbation of any pre- existing condition of Hazardous Substances.

“Remediation” means: the investigation (including any feasibility studies or reports), cleanup, removal, abatement, transportation, disposal, treatment (including in-situ treatment), management, stabilization, neutralization, collection, or containment of Hazardous Substances and any Release(s), that may be required to satisfy Environmental Laws, in each case, including, without limitation, any closure, restoration or monitoring, operations and maintenance activities, including any engineering or institutional controls, that may be required by any Government Authority after the completion of such investigation, study, cleanup, removal, transportation, disposal, treatment, neutralization, collection, or containment activities as well as the performance of any and all obligations imposed by any Governmental Authority in connection with such investigation, cleanup, removal, transportation, disposal, treatment (including in situ treatment), management, stabilization, neutralization, collection, or containment (including any such obligation that may be imposed pursuant to an Environmental Permit or a consent order).

“Scope of Work” shall have the meaning ascribed to it in Section 4.3.5.

ARTICLE 2

EFFECTIVE DATE, O&M COMMENCEMENT DATE, TERM AND TERMINATION

- 2.1. **a. Effective Dates of the Third Composite Agreement.** This Third Composite Agreement shall become effective on the **“Commission Effective Date,”** which shall be the date on which this Third Composite Agreement is accepted or deemed to be effective by the Federal Energy Regulatory Commission (the **“Commission”**).

The Parties hereby agree that the Second Composite Agreement shall remain in effect until the **“Commission Effective Date”**. On and after the Commission Effective Date, the Second Composite Agreement shall no longer be of any force and effect and shall be superseded in its entirety by this Third Composite Agreement.

The rights and obligations of the Parties that accrue prior to the Commission Effective Date shall be governed by the Second Composite Agreement. After the Commission Effective Date, the rights and obligations of the Parties shall be governed by this Third Composite Agreement.

b. O&M Commencement Date. Con Edison’s obligation to perform the **“Scope of Work”** as defined in Section 4.3.5 of this Third Composite Agreement is contemplated to have a phased-in approach for the Additional Equipment. Accordingly, the Scope of Work for any particular portion/component of the Additional Equipment shall each commence on the first date that the Power Authority satisfies all of the **“Conditions Precedent”** (as defined in Section 4.2 of this Third Composite Agreement) with respect to any particular portion/component of the Additional Equipment (hereinafter the **“O&M Commencement Date(s)”**). The O&M Services are now defined in Section 4.3 of this Third Composite Agreement.

c. Term of Agreement. This Third Composite Agreement shall remain in effect for the remainder of the period of twenty (20) years from February 1, 2011 (which is the date

the Original Agreement was executed and effective) (the "**Term**"), with the option to extend for one (1) additional two (2) year period in the Power Authority's discretion, unless this Third Composite Agreement is terminated prior to such time in accordance herewith.

2.2. Termination.

2.2.1 Written Notice. This Third Composite Agreement may be terminated, in whole or in part, by either Party upon at least one year advance written notice without liability to the other Party for any reason whatsoever, including its own convenience except that no such termination shall have any effect on, and neither Party shall be relieved of, any obligation or liability relating to or arising from this Third Composite Agreement prior to the effective date of such termination.

2.2.2 End of Term Transition. In the event that either Party, in whole or in part, terminates this Third Composite Agreement on written notice and/or assigns its rights and obligations under this Third Composite Agreement in accordance with the terms herein, and/or this Third Composite Agreement terminates pursuant to Article 17 - Default, then, at the Power Authority's sole cost and expense, Con Edison shall: (i) turn over any test equipment provided by the Power Authority to the Power Authority, and (ii) provide reasonable training to the Power Authority's proposed new operator, pursuant to a commercially reasonable schedule, as agreed upon by Con Edison and the Power Authority, (iii) turn over applicable data and procedures in accordance with and as permitted by the provisions of Article 21 - Confidentiality and (iv) turn over all Minor Spare Parts located within the Astoria Annex Substation to the Power Authority.

2.2.3 Default. Either Party may terminate this Third Composite Agreement in accordance with Article 17 Default.

2.3. Survival. This Third Composite Agreement shall continue in effect after termination to the extent necessary to provide for payment of any amounts identified by Con Edison, or that may later be identified by Con Edison, as due and payable hereunder; including final billings and payments pursuant to this Third Composite Agreement; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Third Composite Agreement was in effect, and for survival of those provisions which specifically survive termination of this Third Composite Agreement, including, but not limited to, Article 12 - Environmental Provisions, Article 19, Indemnification, and Article 20- No Warranty/Disclaimers.

ARTICLE 3 CLE III REGULATORY COMPLIANCE

3.1. NERC Reliability Standards Compliance. NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements compliance shall be managed pursuant to the CRM Matrix attached hereto as "**Exhibit F**" and

incorporated herein (as may be amended or revised from time to time, the “**CRM Matrix**”) as well as the following:

- 3.1.1 The Power Authority represents and warrants that all previous entities owning or operating the Additional Equipment from the applicable Date of Energization to the applicable O&M Commencement Date were registered with the NERC as Transmission Owners (TO) and, if required, as Transmission Operators (TOP).
- 3.1.2 The Power Authority further represents and warrants that all previous entities owning or operating the Additional Equipment from the applicable Date of Energization to the applicable O&M Commencement Date have complied with all applicable regulatory requirements, including but not limited to the NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements, as may be amended from time to time, and the Power Authority agrees to provide Con Edison a written confirmation/certification that the Power Authority is in compliance as the Transmission Owner (TO) with any such regulatory requirements, including but not limited to the NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements.
- 3.1.3 It is expressly understood that the responsibility for managing compliance and the accountability for compliance violations and penalties, if any, related to all NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements applicable to the ownership or operation of the Facility shall be the exclusive responsibility of the Power Authority, as a registered entity, until such time as Con Edison assumes that responsibility and accountability as the registered entity, as set forth in Section 3.1.4.
- 3.1.4 In accordance with Article 19 (Indemnification), the Power Authority will indemnify and hold Con Edison harmless, to the extent allowed by law, for all such NERC obligations and penalties, if any, until Con Edison performs the specific test or analysis required by each individual applicable NERC Reliability Standard, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements for the Facility or applicable portion thereof (hereinafter referred to as the “**Compliance Transfer Periods**”). It is expressly understood that each individual NERC Reliability Standard, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements contains a specific timeframe when such retesting or analysis must occur. After the Compliance Transfer Periods, Con Edison will assume the responsibility for managing compliance for the specific NERC Reliability Standard, NPCC Reliability Standards, NPCC Directories, and NPCC Criteria Requirements in question and the accountability for compliance violations and penalties, if any, for such individual applicable NERC Reliability Standard, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements. For the individual NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements that the Power Authority has responsibility for managing compliance, maintaining documentation, and the accountability for compliance violations and penalties, during the Compliance

Transfer Periods, Con Edison shall provide the Power Authority with documentary evidence required to demonstrate compliance, as identified and requested by the Power Authority, with any and all applicable NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements.

- 3.1.5 Con Edison shall provide Power Authority with all documentation that establishes compliance with any and all such NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements, after the Compliance Transfer Periods, and at predetermined time intervals. These intervals may be modified by the Power Authority with the agreement of Con Edison, and upon thirty (30) day notice.
- 3.1.6 Con Edison (and its third-party agents) agrees to comply with all requirements applicable to any and all NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements, as may be amended from time to time, after the Compliance Transfer Periods.
- 3.1.7 **Management of Critical Infrastructure Protection (CIP) Standards:**
 - a. The Power Authority has determined that the inclusion of the Additional Equipment into the Astoria Annex Substation increases the CIP Security Designation of the Facility from Low to Medium. Prior to the applicable O&M Commencement Date, the Power Authority will (i) determine whether the Facility is a Bulk Electric System (BES) Asset, and (ii) determine the existence of Applicable Cyber Systems. If Power Authority determines that the Facility is a BES Asset with Applicable Cyber Systems, then compliance required by all NERC Reliability Standards applicable to BES Assets and Applicable Cyber Systems ("NERC CIP Standards") shall be applied and any required changes to the existing design and operation of the Facility shall be the Power Authority's sole responsibility and performed at the Power Authority's sole cost and expense. In addition, all such design and operational changes required to comply with the obligations of maintaining Applicable Cyber Systems must be completed at least sixty (60) days prior to the applicable O&M Commencement Date and must comply with Good Industry Practice and all Con Edison Standards. After any and all design and operation changes are completed, the Power Authority shall be required to adhere to Con Edison Standards, and Con Edison shall perform all functional activities related to CIP Standards for Applicable Cyber Systems compliance and shall provide the Power Authority with documentary evidence required to demonstrate compliance, as identified and requested by the Power Authority. After the Compliance Transfer Periods, Con Edison will assume responsibility for managing those protections, maintaining the required compliance evidence, and managing compliance audits in accordance with Con Edison Standards.
 - b. If the protections required by the NERC CIP Standards are determined by Power Authority, in its sole discretion, to not be necessary until after the applicable O&M Commencement Date, then at Power Authority's direction, Con Edison

shall be responsible at Power Authority's sole risk, cost and expense, for establishing and managing the protections and functional tasks required by the NERC CIP Standards, as described in Exhibit F attached hereto. The Power Authority, as the registered Transmission Owner for the Facility, will retain responsibility for the determination of whether the Facility is a BES Asset and determining the existence of Applicable Cyber Systems. Con Edison will assist the Power Authority during any audits of the Facility but the Power Authority shall remain responsible for the resulting NERC compliance. Any changes required to upgrade the Facility shall be at the Power Authority's sole cost and expense.

- 3.2. **Costs and Expenses.** All costs and expenses incurred by Con Edison under this Article 3, including but not limited to, those associated with Con Edison personnel and any third-party contractors or consultants engaged by Con Edison to support Con Edison's responsibilities regarding compliance with NERC Reliability Standards at the Facility (including CIP Standards for Applicable Cyber Systems), shall be reimbursed in full by the Power Authority in accordance with Articles 6 and 7 of this Third Composite Agreement. Any implementation measures, recommendations, or corrective actions arising from or relating to compliance with NERC Reliability Standards hereunder shall be deemed O&M Services under this Third Composite Agreement and shall be performed at the sole cost and expense of the Power Authority.
- 3.3. **Energization Component Requirements.** Prior to the applicable O&M Commencement Date, the Power Authority shall be solely responsible to ensure that the use and/or operation of any or all of the Energized Components do not adversely impact the safe and reliable operation of Con Edison's transmission systems. In addition, each Energized Component must meet all applicable regulatory requirements including but not limited to the NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements and any other regulations/requirements that govern the design and operation of the bulk electric/power systems, including all Con Edison Standards.
- 3.4. **Permits.** In accordance with Article 8- Taxes/Permit Fees, the Power Authority shall be solely responsible pursuant to Applicable Legal Requirements and Good Industry Practice, at its sole cost and expense, to obtain, procure, maintain and update all rights, approvals, consents, Permits and Environmental Permits from Governmental Authority or otherwise, and any other items needed for or relating to the operation and maintenance of the Facility, the O&M Services, and the performance of any obligation of the Power Authority hereunder. Con Edison shall cooperate in good faith with the Power Authority in the processing of Permit and Environmental Permit applications that require signature on behalf of Con Edison or information available only to Con Edison, and the Power Authority shall reimburse Con Edison for all reasonable out-of-pocket (i.e., third-party) expenses incurred by Con Edison in connection with such cooperation.
- 3.5. **CRM Matrix.** The Power Authority shall be responsible for ensuring that Con Edison is provided with all necessary documentation, data, access credentials, and other information required to perform its functional tasks under the CRM Matrix in a timely and complete manner.

- 3.6. **Survival.** The Parties obligations under this Article 3 shall survive the expiration or earlier termination of this Third Composite Agreement.

ARTICLE 4
CONDITIONS PRECEDENT TO THE SCOPE OF WORK; O&M SERVICES;
EXCLUDED/LIMITATIONS ON O&M SERVICES

- 4.1. **Risks.** As of the execution of the Original Agreement on February 1, 2011, Con Edison began its performance of certain Preparatory Work and Services as defined in Section 4.3 of the Second Composite Agreement while Con Edison was waiting for Power Authority to satisfy the Conditions Precedent to the Scope of Work set forth in the Second Composite Agreement. Sometime thereafter, Power Authority requested that Con Edison commence its obligation to perform the Scope of Work, notwithstanding that the Power Authority did not fully meet the Conditions Precedent to Con Edison's good faith satisfaction prior to Con Edison's commencement of the Scope of Work. Accordingly, as of June 24, 2011, Con Edison commenced the Scope of Work, subject to certain revisions, amendments and modifications to the Original Agreement, which were fully integrated into the Second Composite Agreement. Specifically, as of June 24, 2011, and as more particularly set forth in the Second Composite Agreement, the Parties agreed that there were and are certain operational, environmental and commercial risks to the Parties, Astoria Energy II LLC and other third parties inherent in commencing Con Edison's obligations to perform the Scope of Work under the Second Composite Agreement prior to the Power Authority fully meeting the Conditions Precedent to Con Edison's good faith satisfaction (collectively referred to herein as the "**Risks**"), which Risks relate to and include, but are not limited to, accepting the Shunt Reactors (as defined in Exhibit A-1), which was precluded by but not limited to, the leaking nitrogen and oil condition of Shunt Reactor 2, incomplete maintenance records for the Shunt Reactors, an outstanding joint review of the maintenance records, and the lack of a design and installation of nitrogen alarms on the Shunt Reactors. Accordingly, notwithstanding any provision to the contrary contained in the Second Composite Agreement or any provision to the contrary contained in this Third Composite Agreement, Power Authority hereby specifically acknowledges and assumes all risk arising from, relating to and/or connected with the Risks and also acknowledges and assumes all such operational, environmental and commercial risks to the Parties and other third parties arising from, relating to, or connected with this Third Composite Agreement (which incorporates all prior versions thereof back to the Original Agreement, and which are restated into this Third Composite Agreement) that existed prior to the applicable O&M Commencement Date, which shall also be deemed to be included in the definition of "Risks".
- 4.2. **Conditions Precedent to the Scope of Work.** Notwithstanding anything to the contrary in this Third Composite Agreement or the attachments hereto, Con Edison's obligations to perform the Scope of Work under this Third Composite Agreement shall not commence until the Power Authority satisfies the following conditions precedent to Con Edison's reasonable satisfaction (the "**Conditions Precedent**") and the Power Authority shall continue to adhere to the Conditions Precedent, as appropriate, throughout the Term of this Third Composite Agreement:

- 4.2.1 **Ownership.** The Power Authority shall be the titled owner and registered Transmission Owner (TO) of the Facility, and, the Grantee, as a successor and assign, to the Easement Grant in accordance with the terms of the Easement Grant.
- 4.2.2 **Accepting the Facility/Additional Equipment.** Without limitation of the Construction and Commissioning Support Transaction Form between Con Edison and the Power Authority dated February 14, 2025 (“**T&C Support TF**”) to the extent that it is applicable for this section or any other section of this Agreement, the Power Authority shall conduct and complete all commissioning and testing of the Additional Equipment prior to the applicable O&M Commencement Date.
- 4.2.2.1 The Power Authority shall accept all components of the Additional Equipment from CHPE in accordance with Substation Operation (SSO) Specification 0100-0022/11 and CE-ES-1022/09 (as may be amended or revised from time to time, the “**Acceptance Procedures**”), attached hereto as **Appendix A** and **Appendix B** respectively, and incorporated by reference herein, except that the information required to be “verified” therein shall be verified by CHPE², which shall be deemed to include, without limitation, “Buyer’s Team” as such term is defined in the T&C Support TF, rather than “SSO”. In the event that any additional work is required for the Power Authority to accept the Additional Equipment from CHPE in accordance with the Acceptance Procedure, the Power Authority, at its sole cost and expense, shall perform such required work in order for the Additional Equipment to meet the Acceptance Procedure requirements.
- 4.2.2.2 After the Power Authority accepts the Additional Equipment from CHPE, and prior to the applicable O&M Commencement Date, Con Edison shall accept all components of the Additional Equipment from the Power Authority in accordance with the Acceptance Procedures.
- 4.2.2.3 In the event that any additional work is required for Con Edison to accept the Additional Equipment from the Power Authority in accordance with the Acceptance Procedure, the Power Authority, at its sole cost and expense, shall perform any such work and accept such Additional Equipment in accordance the Acceptance Procedures.
- 4.2.2.4 Con Edison shall not be obligated to accept any of the Additional Equipment if Con Edison, in good faith, is not satisfied with the compliance of the Acceptance Procedures by either CHPE or the Power Authority. This process shall be repeated until such time as Con Edison accepts each portion/component of the Additional Equipment from the Power Authority in accordance herein. For the purposes of clarity and the avoidance of doubt, the Parties acknowledge that there will be a

² During the Term of this Agreement, in the event Power Authority retains a contractor to perform work in the Facility that is not part of the O&M Services, or other similar situations, then any reference to CHPE in 4.2.2 shall be deemed to mean any applicable contractor of Power Authority.

phased-in approach for energizing the Additional Equipment and that Con Edison shall not be obligated to provide any O&M Services to any portion of the Additional Equipment that have not been accepted by Con Edison, notwithstanding the applicable O&M Commencement Date for some portion(s) of the Additional Equipment.

- 4.2.3 **Commissioning.** Subject to the terms and conditions of the T&C Support TF (to the extent applicable), prior to the applicable O&M Commencement Date, all high voltage components of the Additional Equipment and their associated auxiliary equipment shall be fully commissioned.
- 4.2.4 **Inspection.** Subject to the terms and conditions of the T&C Support TF (to the extent applicable), at least thirty (30) days prior to the applicable O&M Commencement Date, Con Edison shall generally inspect the Facility to evaluate whether the Additional Equipment was constructed and installed in accordance with the Easement Grant, as amended. In the event Con Edison determines in good faith that the Additional Equipment as constructed and installed does not comply with the Easement Grant, the Power Authority, at its sole cost and expense, shall perform such required work in order for the Additional Equipment to meet the Easement Grant requirements (“**Additional Work**”). Within thirty (30) days after notice from the Power Authority that the Additional Work has been completed, Con Edison shall re-inspect the Facility to confirm that the Additional Equipment complies with the Easement Grant. This process shall be repeated until such time as Con Edison determines in good faith that the Additional Equipment complies with the Easement Grant.
- 4.2.5 **SPCC Plan.** At least thirty (30) days prior to the applicable O&M Commencement Date, the Power Authority shall provide Con Edison with a draft Spill Prevention, Control, and Countermeasure (“**SPCC**”) Plan for Con Edison’s review and comment. Provisions relating to Con Edison’s implementation of the SPCC Plan, or any subsequent modification of implementation provisions, are subject to Con Edison’s approval, which shall not be unreasonably withheld.
- 4.2.6 **Certificate of Occupancy.** The Power Authority shall be required to maintain, at its sole cost and expense, the permanent Certificate of Occupancy issued by the New York City Department of Buildings (“**DOB**”) for the Astoria Annex Substation and, prior to the applicable O&M Commencement Date, obtain a new Certificate of Occupancy for any portions of the Additional Equipment as may be required by the DOB.
- 4.2.7 **Con Edison Knowledge of the Facility.** To the extent not previously provided during the Term, and to the extent it requires updates or modifications (including without limitation, to address the Additional Equipment), the Power Authority shall provide to Con Edison two hard copies and an electronic copy of any and all of (i) a System Description procedure, which shall be subject to Con Edison’s review and comment (so that Con Edison may draft alarm response procedures); (ii) plans developed for operating and maintaining the Facility, (iii) plans developed for

commissioning and testing of the Additional Equipment prior to applicable O&M Commencement Date, including, but not limited to, archived configuration of the protection and automation system, configuration files of the relays, Intelligent Electronic Devices (“IEDs”) and Remote Terminal Units (“RTUs”), relay protection system setting sheets, baseline commissioning data for the Facility, including but not limited to, gas insulated switchgear (“GIS”), the reactors, disconnect switches and circuit breakers; (iv) approved commissioning data, (v) as-left settings files or configuration files for the protective relays, IEDs, RTUs, Human Machine Interface (HMI), IMUX, (vi) a Facility Plan/Physical Layout, (vii) two complete paper sets and an electronic copy (formatted for entry on Con Edison’s metaphase system) of as-built construction drawings, which shall also include, but not be limited to, the schematics and wiring prints for all relay protection, automation, ABB GIS, AC/DC load boards, emergency generator, back up design calculations, (viii) Manufacturer’s Specifications and Instructions for the Facility, including but not limited to the Shunt Reactors and the “PURS” (as defined in **Exhibit A**); and (ix) the Power Authority’s NERC Compliance criteria.

4.2.8 **Training.** At Con Edison’s request, the Power Authority shall be solely responsible to coordinate, provide and pay for all costs relating to operation, maintenance, reliability, troubleshooting, and modification training for supervisors, mechanics, operators and technicians in Con Edison’s Substation Operations Department who Con Edison anticipates to be working at any portion of the Facility (including, without limitation, with respect to all Equipment listed in **Exhibits A-1** and **A-2**).

4.2.9 **Preventative Maintenance Procedures.** The Power Authority hereby acknowledges receipt of Con Edison’s current preventative maintenance procedures for the Facility which are: (i) Preventive Maintenance Inspection of Electric Station Equipment Document ID #CE-ES-1000/13 attached hereto as **Appendix D-1** and (ii) with regard to protection system maintenance, Protection System Maintenance Program / Central Operations 0400-0400 Rev. 9.0, which is attached hereto as **Appendix D-2** (items (i) and (ii), as may be amended from time to time, are together referred to as the “PMP’s”). The Power Authority may make reasonable inquiries and share feedback on the PMP’s throughout the Term for Con Edison’s consideration, but Con Edison retains sole and absolute discretion to determine whether any changes or new PMP’s are needed or appropriate. Con Edison shall provide the Power Authority with updated PMP’s following any amendments or revisions to ensure the Power Authority has the most current versions. Upon request by the Power Authority, Con Edison shall provide a copy of any other specific Con Edison Standard applicable to the Facility that the Power Authority identifies in its request.

4.2.10 **Insurance.** The Power Authority will procure all insurance as required by Article 18- Insurance herein and fully pay all such premiums (or self-insure, as further provided for in Article 18).

- 4.3. **O&M SERVICES.** The Preparatory Work and Services and the Scope of Work (as defined in Section 4.3.5) shall be referred to collectively in this Third Composite Agreement as the “**O&M Services**”. Subject to Section 4.3.1 below, Con Edison shall perform the O&M Services subject to the terms of this Third Composite Agreement, at the Power Authority’s sole cost and expense, in accordance with Applicable Legal Requirements, Con Edison Standards, and Good Industry Practice, which are consistent with NERC Reliability Standards, NPCC Reliability Standards, NPCC Directories and NPCC Criteria Requirements, the PMPs, and the Power Authority’s specific terms as set forth in **Exhibit C**, with persons who are skilled and trained to perform the O&M Services to the Facility and its components.
- 4.3.1 In the event of a conflict between Con Edison Standards and the Power Authority’s specific terms as set forth in **Exhibit C**, the Power Authority’s specific terms as set forth in **Exhibit C** shall take precedence and control. In the event of a conflict between the PMPs and Power Authority’s specific terms as set forth in **Exhibit C**, the PMPs shall take precedence and control. In the event of a conflict between Con Edison Standards and Good Industry Practice, Con Edison Standards shall take precedence and control. In the event that Con Edison subcontracts any portion of the O&M Services subject to the Power Authority’s approval, and in accordance with Section 4.3.6, Con Edison shall provide such Con Edison Subcontractor(s) with any applicable Con Edison Standards and PMPs, as permitted by the provisions of Article 21 - Confidentiality.
- 4.3.2 **Access to and Use of the Power Authority Property.** The Power Authority hereby authorizes Con Edison (and any applicable Con Edison Subcontractor) to access and use any portion of the Power Authority Property required by Con Edison to perform the O&M Services, upon reasonable notice to the Power Authority for Con Edison to perform the O&M Services, except that no prior notice shall be required in cases of Emergency, as determined in Con Edison’s sole discretion. Such access and use shall be permitted 24 hours a day, 7 days a week, 365 days of the year. Con Edison and any applicable Con Edison Subcontractor shall comply with the Power Authority’s site access requirements for security, which may include requiring an escort, but the Power Authority shall cooperate with Con Edison and any applicable Con Edison Subcontractor to ensure access consistent with this Section. In the event of Emergency, Con Edison and/or the Con Edison Subcontractors must immediately notify the NYPA ECC (as hereinafter defined).
- 4.3.3 **Best Available Retrofit Technology (BART).** Con Edison (and any applicable Con Edison Subcontractor) shall comply with 6 NYCRR Part 248 - Diesel Emissions Reduction Act and Best Available Retrofit Technology (BART).
- 4.3.3.1 All diesel-powered Heavy Duty Vehicles (HDVs), greater than 8500 GVW, owned by, operated by, or leased by Con Edison personnel and/or Con Edison Subcontractor(s) personnel and used in the performance of the O&M work, shall be powered by Ultra Low Sulfur Diesel Fuel (ULSD) and shall utilize BART.

4.3.3.2 Con Edison and any applicable Con Edison Subcontractor(s) shall submit proof of compliance with 6 NYCRR Part 248, including a complete HDV inventory/equipment list of all vehicles, equipment, etc. subject to review and approval by the Power Authority for submission to the NYSDEC by Con Edison. Power Authority will provide to Con Edison an inventory template, which Con Edison, at its sole discretion, may choose to use. Con Edison shall be solely responsible for all such costs and expenses resulting from violations and/or fines from the NYSDEC.

4.3.4 **Preparatory Work and Services.** Subject to the terms and conditions of this Third Composite Agreement, including without limitation, Con Edison's availability as set forth in Sections 19.4 and 19.5 herein, Con Edison shall undertake all work reasonably required to prepare to accept responsibility for the Scope of Work prior to the applicable O&M Commencement Date (the "**Preparatory Work and Services**"). The Preparatory Work and Services shall include, but not be limited to, Facility inspections, acceptance of the Facility and any portions thereof (including, without limitation, the Additional Equipment), review of materials submitted by the Power Authority, manufacturers and vendors (including, but not limited to, an organized binder containing all Manufacturer's Specifications and Instructions, test records, and other information relevant to the Additional Equipment and any other Equipment that may have been modified or impacted by the CHPE Project that is part of the O&M Services, as well as digital copies of the same), preparing an Engineering Description of the Astoria Annex Substation, which shall include, but not be limited to, the automation design, the GIS, AC/DC load boards, emergency diesel generator, and the relay system design, training, providing PMPs, review of the Power Authority's submissions under this Third Composite Agreement, including but not limited to the comments to the SPCC Plan, and initial inclusion, modification and maintenance of any and all drawing and design basis information in the Con Edison document control systems.

4.3.5 **Scope of Work.** Except as limited by the "**Excluded Services**" (as defined in Section 4.4) and Section 4.3.5.1 below, and subject to the "**Conditions Precedent**" (as defined in Section 4.1), commencing on the applicable O&M Commencement Date, the "**Scope of Work**" shall mean that Con Edison shall be responsible to operate, monitor, inspect, and perform ordinary, preventative and corrective maintenance, testing, and protection system operations assessments to the applicable portions of the Facility (including, without limitation, the Additional Equipment) in accordance with the terms of this Third Composite Agreement.

4.3.5.1 Without limitation of Section 4.3.5 above, following discovery by Con Edison, Con Edison shall notify the Power Authority of any material impairment of any fire suppression or fire detection system at the Facility as soon as reasonably prudent under the circumstances.

4.3.5.2 In addition to the limitations set forth in Sections 19.4 and 19.5 below, in the event Con Edison cannot perform the duties identified hereunder

due to response efforts to unforeseen circumstances or system needs, Con Edison will procure contractors to provide operations and maintenance support only on an as-needed basis. In the event Con Edison cannot procure contractors to respond in a timely manner, the Power Authority will procure contractors for operations and maintenance of the Facility and Con Edison shall provide timely escorted access to the Facility to the Power Authority and its contractors.

- 4.3.6 **Subcontracting.** At Power Authority's sole cost and expense, Con Edison may subcontract any portion of the performance of the O&M Services without the prior written approval of the Power Authority as to the work to be subcontracted and/or the subcontractor, which includes, but is not limited to, general maintenance of the Facility, landscaping, and minor building repairs, except that Con Edison may not subcontract the portion of the O&M Services that involves operation of Equipment without the prior written approval of the Power Authority as to the work to be subcontracted and/or the subcontractor. Notwithstanding the foregoing, Con Edison, in its sole discretion, may hire the manufacturer/vendor of any portion of the Facility, to perform O&M Services, including, but not limited to, periodic and corrective maintenance of the Equipment without the prior written approval of the Power Authority as to the work to be subcontracted and/or the subcontractor, and the Power Authority shall be solely responsible for all such costs and expenses.

- 4.3.7 **Operating Communications-Astoria Annex Substation/ Energy Control Center.** In accordance with Article 5 - Services and Utilities, the Power Authority shall install and maintain, at its sole cost and expense, two dedicated communication lines between the Astoria Annex Substation and the Con Edison Energy Control Center ("**Con Edison ECC**") and two dedicated communication routes between the Astoria Annex Substation and the Con Edison Alternate Energy Control Center ("**Con Edison AECC**") and such other communication lines, including, without limitation, those that are necessary to operate any required fire detection and alarm systems or otherwise needed in connection with the requirements of the Interconnection Agreement. Con Edison shall maintain continuous communication 24 hours a day, 7 days a week, and 365 days of the year, only through the Con Edison ECC or AECC. Con Edison ECC/AECC shall notify the designated Power Authority Energy Control Center ("**NYPA ECC**") dispatcher of any Emergency situation at the Astoria Annex Substation as soon as practicable. In addition, the Power Authority shall install and maintain, at its sole cost and expense, a regular phone line for all outside calls. The Power Authority shall provide a Con Edison substation frequency band radio system for communication between the Astoria Annex Substation operators and the Con Edison ECC.

4.3.8 **RTUs.**

- a. Con Edison shall operate and maintain the Power Authority's "**Data and Control RTU**" and the Power Authority's "**Data Only RTU**" in their existing condition; provided however, any modifications to such existing equipment, including but not

limited to, the Partial Interim RTU Modification (as defined below), are hereby acknowledged by the Parties to be excluded from Con Edison's O&M Services.

- b. NYPA shall ensure that the RTUs at the Astoria Annex Substation are fully operational and all-inclusive of equipment and consistent with Con Edison Standards at all times, and any modifications, capital projects, or upgrades to the RTUs shall be subject to the requirements and restrictions set forth in this Third Composite Agreement (including, but not limited to, all capital expenditure, design, testing, commissioning and acceptance procedures and requirements set forth herein).
- c. The Parties acknowledge that CHPE is installing a partial interim equipment modification in order for the existing RTU to comply with the Interconnection Agreement (the "**Partial Interim RTU Modification**"). Notwithstanding the provisions of Section 4.3.8(b), the Parties further acknowledge that the Partial Interim RTU Modification is not a complete or permanent solution to the capital expenditures and design upgrades required for the Power Authority's existing RTU. The Power Authority shall be solely responsible for the acceptance, operation and maintenance of the Partial Interim RTU Modification and hereby assumes any and all risks arising from, relating to and/or connected with the continued use of the existing RTU equipment and/or the use of the Partial Interim RTU Modification. If any new or additional Verizon circuits are required for the Partial Interim RTU Modification, Con Edison shall be responsible solely for obtaining and coordinating such circuits, at the Power Authority's sole cost and expense.
- d. Additionally, the Power Authority shall be solely responsible for initiating and completing a capital project to plan, procure, install, and commission a new permanent RTU for the Facility and all interconnected feeders (the "**Replacement RTU**"). The Power Authority shall use its best efforts to complete the Replacement RTU so that it is fully operational within one (1) year from the execution date of this Third Composite Agreement, but in no event later than eighteen (18) months from such execution date. For the purposes of clarity and the avoidance of doubt, the Replacement RTU is a Compliance Modification and Upgrade (as defined in Article 14), and not a Proposed Equipment Change or Like-in-Kind Replacement (as such terms are defined in Section 4.4.5 below). The Replacement RTU shall comply with all requirements, conditions, and restrictions set forth in Article 14 and in this Third Composite Agreement (including, but not limited to, all capital expenditure, design change, testing, commissioning, and Acceptance Procedures and requirements set forth herein). Con Edison's obligation to operate and maintain the Replacement RTU must be accepted by Con Edison as part of its O&M Services, and once accepted and operational shall be subject to the terms and conditions of this Third Composite Agreement. All costs and expenses associated with the Replacement RTU, including its design, installation, commissioning and any transition activities required to include it in Con Edison's O&M Services, shall be the sole responsibility of the Power Authority. If any new or additional Verizon circuits are required for the Replacement RTU, the Power Authority shall be solely responsible for obtaining, coordinating, and installing such circuits, at its sole cost and expense, unless otherwise agreed to by the Parties in writing.

4.4. **EXCLUDED SERVICES/ LIMITED SERVICES:** The following shall be deemed to be excluded services, (which may provide for some limited services but only as specifically set forth below), from the Scope of Work (collectively, the “**Excluded Services**”) under this Third Composite Agreement:

4.4.1 **Construction Defects.** The O&M Services shall not include any design, redesign, operation, monitoring, inspection, preventative or corrective maintenance, testing, or protection system operations assessment relating to construction defects of all or any portion of the Facility, as reasonably determined by Con Edison, except Con Edison will take any immediate action necessary to protect persons and property from harm. The Power Authority shall be solely responsible to promptly correct any such construction defects at its sole cost and expense.

4.4.2 **Capital Expenditures.** The O&M Services shall not include any operation, monitoring, inspection, preventative or corrective maintenance, testing, or protection system operations assessment that requires a capital expenditure, including but not limited to design changes in accordance with Section 4.4.3. The Power Authority shall be solely responsible to promptly undertake, arrange for and complete all aspects of work and procurement of equipment, materials, labor and facilities in connection with any capital expenditures, including but not limited to design changes, at its sole cost and expense, and to the extent the Power Authority requests that such items be included within Con Edison’s O&M Services, the procedures and requirements for Proposed Equipment Changes and/or Compliance Modifications and Upgrades, as applicable, shall apply.

4.4.3 **Design Changes.** The Power Authority acknowledges that portions of the 15th Street and Astoria Pressurization Plants, 15th Street and Astoria PURS and Shunt Reactors are near end of service life and may require future capital upgrades, and that other aspects of the Facility may also require such upgrades during the Term due to reliability concerns, technological advancements, or unforeseen operational challenges. Con Edison’s services shall be limited to using commercially reasonable efforts to perform corrective maintenance to such equipment; however, the Power Authority acknowledges that a capital expenditure may be required. In the event a design change is required, the Power Authority shall submit such design change to Con Edison for its review and comment. The Power Authority shall be solely responsible to undertake, arrange for, complete and pay for any costs relating to designing, constructing, installing and implementing the design change, and to the extent the Power Authority requests that such items be included within Con Edison’s O&M Services, the procedures and requirements for Proposed Equipment Changes and/or Compliance Modifications and Upgrades, as applicable, shall apply. This shall apply to any and all such design changes.

4.4.4 **Revenue Metering.** Maintenance and calibration of the revenue metering instrumentation, and Phase 1 Back-up Analog Telemetry equipment to the NYISO will be performed by the Power Authority. Con Edison shall be notified at least two Business Days prior to such scheduled calibrations and Con Edison reserves

the right to witness the work pursuant to the Article 22 - Right to Inspect/Observe Testing.

4.4.5 **Like-in-Kind Replacements/Equipment Changes.** Without limitation of, and subject to the terms of Sections 4.4.1 – 4.4.3 and Article 14 hereof, any minor, insubstantial and like-in-kind replacements to the Equipment (“**Like-in-Kind Replacements**”) may be made by or on behalf of the Power Authority without Con Edison’s consent and without requiring an amendment to this Third Composite Agreement, provided that the Power Authority provides Con Edison with at least thirty (30) days’ advanced written notice of such Like-in-Kind Replacements. Upon receipt of such notice, Con Edison shall have the right to request additional information and/or require the Power Authority to demonstrate, to Con Edison’s reasonable satisfaction, that the changes set forth in such notice qualify as minor, insubstantial, and/or like-in-kind replacements. If Con Edison is not reasonably satisfied, such replacements shall be subject to the prior written consent and conditions of Con Edison, its sole discretion. Notwithstanding the foregoing, and without limitation of, and subject to the terms of Sections 4.4.1 – 4.4.3 and Article 14 hereof, the Power Authority shall promptly notify Con Edison in writing of any proposed changes, modifications, replacements, or additions to the Equipment that do not qualify as Like-in-Kind Replacements (“**Proposed Equipment Changes**”). No such Proposed Equipment Changes shall be included in Con Edison’s O&M Services hereunder without Con Edison’s prior written consent, which may be withheld or conditioned in its reasonable discretion. The Parties acknowledge and agree that replacement of the existing Shunt Reactors with new shunt reactors shall be considered a Proposed Equipment Change (not a Like-in-Kind Replacement).

4.4.6 **Spare Parts.** The Power Authority assumes sole responsibility to purchase, procure, stock and restock any and all spare parts, including, but not limited to the “**Major Spare Parts**” listed in **Exhibit D**, so that there is at least one spare for each major component and other long lead items in use at the Facility at all times, and also including, but not limited to, minor spare parts and regular consumables (“**Minor Spare Parts**”) as indicated in **Exhibit D**, and “**Other Parts and Equipment**” as defined in Section 4.4.6.2. Except for Minor Spare Parts and Other Parts and Equipment, both of which Con Edison shall maintain in the Astoria Annex Substation, the Power Authority shall be solely responsible to maintain any and all spare parts not stored at the Astoria Annex Substation. The Power Authority may ship the Minor Spare Parts and Other Parts and Equipment directly to Con Edison. All title and risk of loss to any Minor Spare Parts and Other Parts and Equipment shall remain with the Power Authority until delivery to the Astoria Annex Substation. Con Edison will review and use reasonable efforts to define the required Minor Spare Parts needed to support the day-to-day operation of the Facility.

4.4.6.1 The Power Authority shall be solely liable for any loss to any third party and/or any loss or failure to the Facility arising from or relating to any failure to procure and provide to Con Edison any and all spare parts, including Minor Spare Parts, on a timely basis. Without limiting the

generality of the preceding sentence, in the event of an Emergency, the Power Authority authorizes Con Edison to utilize any installed spares in the Facility, including circuit breakers and disconnect switches.

- 4.4.6.2 **“Other Parts and Equipment”** shall be any and all test equipment specified by Con Edison’s Substation Operations (“SSO”) Department. The Power Authority shall be solely responsible for all costs and expenses for the future repairs or replacement of the test equipment as required.
- 4.4.6.3 Con Edison may request, by written notice to the Power Authority, to modify the inventory of Minor Spare Parts and/or Other Parts and Equipment to be maintained at the Astoria Annex Substation, and the Power Authority shall respond in writing within thirty (30) days of its receipt of Con Edison’s request. In the event the Power Authority does not respond within the time provided, such request shall be deemed to be granted by the Power Authority.
- 4.4.6.4 All spare parts purchased by the Power Authority for the Facility shall be held at the Power Authority’s Warehouse in Astoria, for exclusive use on Facility equipment. Con Edison shall not use these items for Con Edison equipment unless Con Edison obtains the Power Authority’s prior written approval. If Con Edison uses any of the Power Authority spare parts for something other than the Facility, Con Edison must promptly replace such spare parts at its own cost. Con Edison shall be solely liable for any loss to any third party and/or any loss or failure to the Facility arising from or relating to the use of the spare parts by Con Edison. At Power Authority’s sole cost and expense, Con Edison assumes sole responsibility for maintaining the Minor Spare Parts and Other Parts and Equipment stored at the Astoria Annex Substation.
- 4.4.7 **Performance of Excluded Services/Limited Services.** For any excluded or limited services, the Power Authority shall be solely responsible, at its sole cost and expense, to take such prompt action as may be required to ensure the continued regular operation of the Facility.
 - 4.4.7.1 In the event that Con Edison chooses to perform work or to provide equipment or services which are not part of the O&M Services, it shall be at the Power Authority’s sole cost and expense and subject to a separate written agreement negotiated between the Parties.
 - 4.4.7.2 In the event that the Power Authority hires a third party to perform work or to provide equipment or services to the Facility which are not part of the O&M Services, it shall be at the Power Authority’s sole cost and expense. In addition, the Power Authority and the Power Authority Contractors shall comply with Con Edison’s Standards, including but not limited to, Con Edison’s **“General Rules and Regulations,”**

“General Instructions Governing Work on System Electrical Equipment” and the rules and procedures of Con Edison’s SSO and System and Transmission Operations (“**STO**”) Departments, including, but not limited to, a Con Edison employee holding all substation work permits and e-HASP requirements.

ARTICLE 5

SERVICES AND UTILITIES

- 5.1. Con Edison shall, subject to the terms and conditions of a separate License Agreement and/or amendment to the Easement Grant, in a form acceptable to Con Edison in its sole discretion, allow the Power Authority to use and occupy certain land at the Con Edison Lands, as preliminarily shown on the Survey attached hereto as **Exhibit E**, as required to permit subsurface and/or aerial rights for telecommunications facilities, including phone lines and communication lines, water lines for potable water protection, two (2) 27 kV feeder(s) for light and power, which shall be owned by Power Authority from the Y connection of the Con Edison System (Astoria East Substation) to the Astoria Annex Substation, power supply from the Power Authority’s transformers to the PURS, and the extension of dielectric oil cooling lines for the Q35L & Q35M Transmission Lines. In obtaining the light and power for the Facility, Power Authority shall obtain and pay for unbundled delivery service from Con Edison. Con Edison shall provide the unbundled delivery service to the Power Authority under Con Edison’s Delivery Service Rate Schedule, PASNY No. 4, as it may be revised or superseded from time to time.

The charges for the Con Edison delivery services referenced herein shall be based on quantities of electricity that are delivered to the Facility and that are metered at the revenue meters. All such utility/services facilities shall be owned by the Power Authority and shall be maintained by Con Edison pursuant to the terms and conditions of this Third Composite Agreement.

- 5.2. Prior to the applicable O&M Commencement Date, the Power Authority shall install, at its sole cost and expense, (i) its own water meter at the Astoria Annex Substation, (ii) its own revenue/electric meters for equipment in the Astoria Annex Substation, (iii) its own revenue/electric meter for the PURS and Pressurization Plants at the Power Authority Property associated with Q35L & Q35M Transmission Lines and (iv) meters at other locations as Con Edison reasonably requests for the Facility. On or before the applicable O&M Commencement Date, ownership of all such revenue meters shall be transferred to Con Edison. The Power Authority shall establish accounts for any services/utilities, including services specified in Section 5.1 as applicable, in its own name. The Power Authority shall be solely responsible to pay for any and all such services directly to the provider of such services.

ARTICLE 6

COMPENSATION

6.1. **Costs and Expenses.** The Power Authority represents that all obligations under the Existing Agreement, including without limitation, all monetary obligations, have been fully satisfied prior to the Commission Effective Date of this Third Composite Agreement. The Power Authority will reimburse Con Edison for all costs and expenses associated with its O&M Services, including, but not limited to, its Preparatory Work and Scope of Work and related services, equipment, materials, expenses, and any work, services, or materials Con Edison provides in an Emergency without the Power Authority's request in accordance with Con Edison's accommodation services charges that are established in accordance with the Public Service Commission tariff, as such tariff may be amended or superseded. The accommodation services charges in effect as of the effective date of this Third Composite Agreement are included hereunder as Appendix E. Con Edison shall provide the Power Authority with courtesy copies of the applicable accommodation service charges upon the Power Authority's request thereafter.

6.1.1 Prior to the applicable O&M Commencement Date, Con Edison will provide the Power Authority a good faith estimate of the anticipated costs and expenses for the Preparatory Work and Services.

Prior to the applicable O&M Commencement Date, Con Edison will provide the Power Authority a good faith estimate of the anticipated costs and expenses for the Scope of Work (on a monthly and/or annual basis), which shall assume ordinary operating conditions for the first calendar year of O&M Services. Following the first calendar year of its O&M Services, and not later than June 30 of each year thereafter, Con Edison shall endeavor to provide the Power Authority with a budget and work plan/schedule for the upcoming calendar year.

The parties agree that a good faith estimate of the anticipated costs for the Scope of Work for the Facility is an average of One Hundred Seventy Thousand Dollars (\$170,000) per month for the remainder of the Term ("**Initial Monthly Estimate**"). The parties agree that the Initial Monthly Estimate is only an estimate and does not include any unanticipated, out of the ordinary expenses, or expenses relating to an Emergency nor does it limit Power Authority's obligation in Section 6.1 to reimburse Con Edison for all costs and expenses associated with the O&M Services.

Power Authority acknowledges that any estimates, preliminary budget information, and/or budgets provided hereunder are subject to change due to various factors within or outside of Con Edison's control, including but not limited to, system conditions, storms, equipment failure, inadvertent failure to include costs, changes to Applicable Legal Requirements, and/or changes to the O&M Services as service progresses. Accordingly, notwithstanding Con Edison's provision of any estimate, preliminary budget information and/or budget, the Power Authority shall reimburse Con Edison for all of the costs and expenses that Con Edison incurs in providing

the O&M Services, which includes, but is not limited to, the cost of labor, materials, and third-party services. For corrective maintenance and for system conditions, which may not be foreseeable, all labor hours are to be billed at the "Accommodation Billing Rate" (defined below).

6.1.2 Following the first calendar year of O&M Services, Con Edison shall provide the Power Authority with an annual work plan/schedule for the Facility for the upcoming year, including preliminary budgeting information, as well as additional updates throughout the year as necessary to reflect material changes or developments impacting the Facility work plans based on consultations with Con Edison's operating authorities.

6.2. **Labor.** Con Edison uses a fully-costed rate called an accommodation billing rate ("**Accommodation Billing Rate**") to invoice outside customers for actual labor hours worked. The Accommodation Billing Rate includes, but is not limited to, vacations and other permitted absences (non-productive time), premium payments for overtime, allowance for pension and health insurance costs, payroll taxes and all other payroll related benefits, worker's compensation insurance costs and administration costs. The Accommodation Billing Rate uses the internal labor rate as a basis for the above calculation. In addition, reasonable and customary administrative overheads ("**A&G**") and gross receipt taxes are charged in accordance with established tariffs. Upon request, annually or with each change, Con Edison shall provide the Power Authority courtesy copies of the Accommodation Billing Rate schedules and the Fringe Benefits rate, as such rates may change from time to time. Con Edison's A&G as approved in the New York State Public Service Commission Tariff ("**NYS PSC Tariff**") is 4.0% and is subject to change.

6.2.1 In order to meet the Power Authority's invoice scheduling constraints under other agreements between the Parties, Con Edison has historically invoiced the Power Authority using an equivalent accommodation rate by manually adding established provisions for overheads and indirects to the labor rate. This practice has been agreeable to both parties and is preferred in some cases because it allows for full disclosure of components of the Accommodation Rate.

6.2.2 During the term of this Third Composite Agreement, it is anticipated that Con Edison will implement a new invoicing software that will enable automated invoicing at Accommodation Billing Rates and it will no longer be necessary or feasible to continue the manual practice currently referenced in Section 6.2.1 above, to calculate equivalent rates. Upon implementation of this software, Con Edison will provide the Power Authority with a supplemental schedule that clearly identifies the various components of each Accommodation Billing Rate to a substantially similar level of detail that exists in the billing practices between the Parties as of the date of this Third Composite Agreement. Upon request, annually or with each change, Con Edison shall provide the Power Authority courtesy copies of this supplemental schedule.

- 6.3. **Materials.** Current replacement cost, actual invoice cost, or Con Edison Unit Cost as applicable, Con Edison's stores and handling rate (if applicable) as approved in the NYS PSC Tariff is 14.50%. Upon request, Con Edison shall provide the Power Authority courtesy copies of the tariff. Con Edison's rate for storage and handling is subject to change from time to time.
- 6.4. **Con Edison Vehicles.** Con Edison's hourly Accommodation Billing Rate in effect at the time of use.
- 6.5. **Other Equipment or Services.** Other equipment, services, janitorial services, grounds keeping, security, gate repair and other ancillary services, and any outside contractors required for performance of the work, Con Edison's actual cost or billing rates, as applicable, plus the A&G rate, if applicable, as such rates are changed from time to time.
- 6.6. **Con Edison Engineering and Design.** Hours taken to make initial inclusion, modification and maintenance of any and all drawing and design basis information in the Con Edison document control systems.
- 6.7. **Sales Taxes.** The Power Authority is exempt from New York State sales tax and Con Edison shall instruct any third-parties Con Edison hires to perform O&M Services on its behalf to not include sales tax in their invoice charges.
- 6.8. **Equipment Failure.** In the event of equipment failure or any failure at the Facility, the Power Authority shall be solely responsible to pursue any applicable claims for warranty and/or reimbursement from the manufacturer, vendor, contractors who built the Facility or otherwise. The Power Authority shall not delay payment of a Con Edison invoice during the pendency of any such claim.

ARTICLE 7 REPORTING AND INVOICING

- 7.1. Con Edison will submit invoices for O&M Services performed by Con Edison within thirty (30) days following the end of each calendar month for the work performed and costs incurred during the month, in accordance with the requirements of Section 6.1.1 above.
- 7.2. For the performance of any O&M Services that Con Edison typically tracks on its work management system (Maximo), Con Edison, by its Substation Operations Department, shall generate and electronically deliver to the Power Authority such Maximo reports within thirty (30) days after such report is requested. The Power Authority representative identified to receive these reports is Paul Cabrera, paul.cabrera@nypa.gov, 914-980-0883.
- 7.3. Invoices, either on their face or by attachment, will show:
 - 7.3.1 Direct charges; the cost of Con Edison labor, including hours worked; the cost of Con Edison supplied materials and supplies.
 - 7.3.2 With regard to contracted services used, within ninety days after Con Edison receives the invoices and any other supporting documentation from the contractors,

Con Edison shall provide the Power Authority the cost of contracted services used, including any invoices and other supporting documentation.

- 7.3.3 A&G overheads that are included in direct charges, including the rate applied and the calculation of the overhead amount.
- 7.3.4 Fringe Benefits overheads that are included in direct charges, including the rates applied and the calculation of the Fringe Benefit overhead components.
- 7.3.5 Invoices will be submitted to the Power Authority at the following address:

Accounts Payable Department
123 Main Street
White Plains, New York 10601
RE: Astoria Annex Substation

cc: SENY Transmission Asset Manager

- 7.4. With reasonable advance notice, the Power Authority will have the right, within two (2) years after charges have been invoiced, to examine Con Edison's books and records to verify the accuracy of the charges under this Third Composite Agreement.

ARTICLE 8 TAXES/PERMIT FEES

- 8.1. The rates and/or prices set forth in this Third Composite Agreement do not include any federal, state or local license, privilege, sales, use, excise, gross receipts, value added or other like taxes which may now or hereafter be applicable to, measured by or imposed upon the services, goods and/or materials furnished hereunder and/or any payment due or collected for such services, goods and/or materials. Con Edison will notify vendors that the Power Authority is exempt from taxes; the Power Authority agrees to reimburse Con Edison for any such taxes which the Power Authority is responsible to pay. The rates and/or prices set forth in this Third Composite Agreement also do not include any charge or fee for any Permits, Environmental Permits, governmental or non-governmental authorizations, consents or permits, approvals that may be required in connection with any services, goods and/or materials furnished hereunder. The Power Authority agrees to pay any such charges and fees and to reimburse Con Edison for any such charges and fees which Con Edison is required to pay.

ARTICLE 9 PAYMENT

- 9.1. Payment of each invoice will be due from the Power Authority within thirty (30) calendar days after receipt.
- 9.2. All payments shall be made in the form of immediately available funds by wire transfer to a bank account specified by Con Edison or in such other form as may be reasonably

requested by Con Edison. The wired funds will be deemed timely paid if received by the bank by close of bank business on or before the due date of the payment.

- 9.3. No later than sixty (60) days after the execution of this Third Composite Agreement, the Power Authority shall deposit the amount of Three Hundred and Forty Thousand United States Dollars (\$340,000.00 USD) in immediately available funds in a depository account established by Con Edison (the "**Disbursement Account**").
- 9.4. If the Power Authority fails to pay an invoiced amount as and when due in accordance with Section 9.1, then Con Edison may withdraw the applicable outstanding invoiced amount from the Disbursement Account in satisfaction of the Power Authority's payment obligation, *provided however*, that if the Power Authority has delivered to Con Edison within fifteen (15) calendar days after receipt of such invoiced amount, a written notice of payment dispute regarding such invoiced amount (or any portion thereof), then, for a period of thirty (30) days from the date of such dispute notice, the Parties shall use good faith efforts to resolve the payment dispute, and Con Edison shall not withdraw any disputed amounts from the Disbursement Account during such thirty (30) day period (but Con Edison may withdraw any unpaid portion of the invoiced amount that is not disputed). If, after the expiration of such thirty (30) day period, the Parties have not resolved the payment dispute and the Power Authority has not yet paid the applicable invoice (or disputed portion thereof), then Con Edison may withdraw amounts owed from the Disbursement Account. Any withdrawal from the Disbursement Account shall not constitute a waiver of the Power Authority's rights to dispute the validity of any invoiced amount under this Agreement.
- 9.5. If at any time the balance in the Disbursement Account falls below Fifty Thousand United States Dollars (\$50,000.00 USD) or is insufficient to cover the amount of any invoice, then, no later than thirty (30) calendar days of the Power Authority's receipt of written notice thereof from Con Edison, the Power Authority shall replenish the Disbursement Account by depositing an additional amount equal to Three Hundred and Forty Thousand United States Dollars (\$340,000.00 USD).
- 9.6. No later than sixty (60) days following the expiration or termination of this Third Composite Agreement and the completion of the O&M Services contemplated hereunder, together with its final invoice, Con Edison shall deliver a final statement (the "**Final Statement**") to the Power Authority detailing (i) all remaining amounts due and payable under this Third Composite Agreement and (ii) a report reflecting the payments withdrawn from the Disbursement Account. No earlier than (30) days after Con Edison delivers the final invoice to the Power Authority, Con Edison may apply the funds from the Disbursement Account to satisfy such final invoice, subject to the Power Authority's right to dispute the invoice in accordance with Section 9.4. If the Disbursement Account contains insufficient funds to pay the final invoice, then Con Edison shall include the unpaid balance in its Final Statement, and the Power Authority shall pay the unpaid balance in accordance with Section 9.1. If the remaining balance in the Disbursement Account exceeds the amount necessary to satisfy the amount payable to Con Edison, Con Edison shall remit such excess balance to the Power Authority no later than (10) Business Days after issuing the Final Statement.

- 9.7. All invoices that the Power Authority fails to pay when due will be subject to interest, except to the extent that Con Edison is able to withdraw the applicable outstanding invoiced amount from the Disbursement Account (subject to the provisions of Section 9.4 above). Interest will be computed from the date payment was due at the rate specified in Section 2880 of the Public Authorities Law between the dates payment is due and is made. If the due date for any payment falls on a national or Power Authority holiday or on a Saturday or Sunday, payment will be accepted as timely on the following Business Day; however, if payment is not received on the following Business Day, interest will be computed from the day payment was due, and the Power Authority's Prompt Payment Policy attached hereto as **Appendix F**, as may be amended from time to time, shall apply. Upon the Power Authority's request, Con Edison shall provide the Power Authority with affidavits from Con Edison stating that the invoices for labor, equipment, services and materials have been paid in full. The Power Authority may withhold payment to Con Edison, and Con Edison shall not be allowed to draw from the Disbursement Account, pending receipt of the requested satisfactory affidavits.

ARTICLE 10 WASTE MANAGEMENT

- 10.1. Within sixty (60) days of the effective date of this Third Composite Agreement, Con Edison shall submit a Waste Management Plan that identifies the routine maintenance wastes that are expected to be generated from O&M activities at the Astoria Annex Substation and the approximate frequency and quantities of such waste generation. Con Edison shall provide the name of a designated contact person for notification purposes for the management and handling of wastes from the Astoria Annex Substation. The Power Authority shall provide the name of a designated contact person for notifications regarding such waste.
- 10.2. The Power Authority shall be responsible for obtaining an EPA identification number for the Astoria Annex Substation, if required. Con Edison shall provide and execute any documents requested by the Power Authority in support of obtaining an EPA identification number for the Astoria Annex Substation operations.
- 10.3. Con Edison shall manage wastes generated from O&M activities in accordance with Environmental Laws. Only wastes generated from the Astoria Annex substation O&M operations may be stored on-site. Con Edison shall notify the Power Authority within seven (7) days of waste generation to enable the Power Authority to make the appropriate arrangements for off-site transportation and disposal of wastes. The Power Authority shall arrange for transportation and disposal of the waste within thirty (30) days of being notified by Con Edison of waste generation.
- 10.4. In the event of a scheduled maintenance activity that is expected to generate a large amount of waste that cannot be staged on-site due to space constraints, Con Edison shall notify the Power Authority at least thirty (30) days prior to the scheduled date, so that the Power Authority can make necessary arrangements for transportation and disposal of the waste. Wastes generated from this type of activity shall be coordinated with the Power Authority in such manner as to allow that shipment to be made using a Part 364 transporter to a the

Power Authority-approved TSDF, and the Power Authority contact person to be present on-site at the time of shipment to sign the manifest, bill of lading, or other shipping paper.

- 10.5. Con Edison shall provide the Power Authority with the Hazardous Waste Emergency Response Preparedness information required in 6 NYCRR Part 372.2 (a) (8) (iii) (e), (emergency phone numbers, location of nearest fire extinguisher, spill kit, alarms, etc.) for the Astoria Annex Substation, and shall maintain a current and updated posting of this information on-site adjacent to the designated hazardous waste storage area, if required. Con Edison shall maintain spill kits and other Emergency response equipment, if necessary, at the Astoria Annex Substation. In the event of a Release of hazardous waste, Con Edison shall take immediate action to contain and control the Release, and will promptly notify the Power Authority of the Release and the actions taken.

ARTICLE 11 STORM WATER MANAGEMENT FOR POST-CONSTRUCTION WATER QUALITY CONTROL

Notice of Intent (NOI) forms and Storm Water Pollution Prevention Plans (SWPPP) are prepared and submitted to NYSDEC for regulated facilities in order to obtain a NYSDEC SPDES Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activities (GP-0-23-001). Separate substations, those not associated with a steam electric generating facility, are not a designated regulated sector by NYSDEC and are therefore not required to obtain coverage nor prepare such documents. Additionally, there is no point source discharge of pollutants to Waters of the State or a Municipal Separate Storm Sewer System (MS4). Post construction storm water controls are achieved by passive measures (natural infiltration) for non-containment areas. Notwithstanding the foregoing, in the event of changes in Applicable Legal Requirements relating to storm water, non-point source, or point source discharges, Power Authority shall take all necessary steps to comply at its sole cost and expense.

ARTICLE 12 ENVIRONMENTAL PROVISIONS

12.1. Release Reporting Requirements:

- a. The Parties agree that in the event that either Party discovers on or about the Easement Area (as defined in the Easement Grant, as may be amended) or the Facility any condition or incident reasonably believed to trigger any of the reporting obligations set forth in Section 12.1.b, the discovering Party shall use commercially reasonable efforts to provide relevant information as quickly as practicable to the other Party by telephone or email, followed by written confirmation.
- b. The Power Authority shall report to the proper Governmental Authorities any reportable Releases within the time required by applicable federal, state, local, and Environmental Laws, or Power Authority requirements, provided that if Con Edison is the discovering party, it provides the Power Authority with relevant information regarding such Release within sufficient time for the Power Authority to make such notification. In the event that Con Edison does not receive written confirmation and

documentation (e.g. by e-mail) that the Power Authority has reported such reportable Release within the time required by applicable federal, state, local, and Environmental Laws, or Power Authority requirements, Con Edison may report such Release. If any penalties are assessed against Con Edison by a Governmental Authority due to the Power Authority's failure to report the Release within the time required under applicable Environmental Law, the Power Authority shall indemnify Con Edison for any such assessed penalties pursuant to Section 12.5 of this Third Composite Agreement.

- c. In the event that Con Edison discovers on or about the Easement Area or the Facility any condition or incident reasonably believed to trigger any of the reporting obligations set forth above, Con Edison shall promptly take all actions reasonably necessary to control and contain the release as are consistent with applicable federal, state, local, and Environmental Laws, or Power Authority requirements and the Spill Prevention, Control and Countermeasure Plan, and as necessary to safeguard the health, safety or welfare of any persons, the Con Edison Lands and any improvements thereon or there under (including the Facility), from any such conditions. This Section 12.1.c does not change any rights or obligations of the Parties with respect to Remediation under Section 12.2.

12.2. Remediation:

- a. The Power Authority shall be responsible for the performance of any Remediation required under applicable federal, state, local, and Environmental Laws, or Power Authority requirements or as determined by any Governmental Authority, in order to address (i) the existence or suspected existence of Hazardous Substances in, on, or under the Easement Area that are discovered or encountered as a result of the Additional Work, Risks, Power Authority's ownership or operation of the Facility or the performance of O&M Services under this Third Composite Agreement (each, a "**Discovery**"); and (ii) any Release or threatened Release in, on, under, over or migrating to, from or through the Con Edison Lands or the Facility caused by or relating to the Power Authority's ownership or operation of the Facility or the performance of the O&M Services under this Third Composite Agreement (the "**Required Remediation**"). The Power Authority shall promptly take all actions as are necessary to perform (a) Remediation of any such Release or Discovery, and (b) such other work as may be required by any Governmental Authority to safeguard the health, safety or welfare of any persons, the Con Edison Lands and any improvements thereon or there under (including the Facility), from any Release or threatened Release or Discovery. In the case any Remediation is required, the Power Authority shall be responsible for restoring the affected portion or portions of the Con Edison Lands, together with any and all affected soil and groundwater, to the functional and topographical condition that existed prior to the Release and Remediation, as well as to the condition required by Environmental Laws, and as necessary to satisfy the requirements of any Governmental Authority exercising jurisdiction with respect to the Con Edison Lands for such Release or Discovery.

- b. Any Remediation required to be performed by the Power Authority pursuant to Section 12.2.a above, may be performed by Con Edison if: (i) the Parties agree that Con Edison shall perform some or all of such Remediation; or (ii) Con Edison is required to perform the Remediation by a Governmental Authority.
- c. In the event that Con Edison performs any Required Remediation, the Power Authority shall pay to Con Edison 100% of all of its costs and expenses associated with such Remediation.
- d. In connection with any Required Remediation, the Party performing the Remediation shall provide the non-performing Party with copies of all work plans required by a Governmental Authority. In addition, the performing Party shall keep the non-performing Party apprised of the status of any such Remediation. The Parties will each use commercially reasonable efforts to cooperate with each other in order to minimize each Party's costs related to any Required Remediation necessary to satisfy applicable Environmental Law obligations and securing closure of any such obligations.

12.3. SPCC Plans:

- a. The Power Authority shall be responsible for: (i) preparing, submitting and maintaining the SPCC Plan for the Facility as set forth in Section 4.2.5; (ii) ensuring that the SPCC Plan is kept current with Environmental Laws; (iii) assuring that the permanent oil containments comply with Environmental Laws; and (iv) conducting periodic inspections of the Facility to monitor compliance with the SPCC Plan.
- b. Con Edison shall be responsible for implementation of the SPCC Plan so long as Con Edison has had an opportunity to review and approve the implementation sections of the SPCC Plan as set forth in Section 4.2.5. Con Edison shall inspect potential spill areas on a weekly basis and keep a permanent log of such inspections which log will be available for inspection by the Power Authority.

12.4. Community Right to Know.

- a. Chemical Inventory: Con Edison shall develop and maintain an inventory of all chemicals and Hazardous Substances, subject to reporting requirements under the Community Right To Know Law, stored or used at the facility. Con Edison shall notify the Power Authority within five (5) Business Days whenever a new such chemical or Hazardous Substance is brought on to the facility or whenever such chemical or Hazardous Substance is removed from the facility.
- b. Risk Management Plan: The Power Authority shall be responsible for:
 - (i) Preparing, submitting, and maintaining the Risk Management Plan ("RMP") for the Facility in compliance with Environmental Laws; and
 - (ii) Conducting periodic inspections of the Facility to monitor compliance with the RMP.

At least thirty (30) days prior to the applicable O&M Commencement Date, the Power Authority shall provide Con Edison with a draft RMP for Con Edison's review and comment. Provisions relating to Con Edison's implementation of the RMP, or any subsequent modification of implementation provisions, are subject to Con Edison's approval.

Con Edison shall be responsible for the implementation of the RMP so long as Con Edison has had an opportunity to review and approve the implementation sections of the RMP.

- c. **Material Safety Data Sheets:** The Power Authority shall obtain and submit Material Safety Data Sheets ("MSDS") for any Extremely Hazardous Substance ("EHS") present at the Facility in an amount equal to or greater than its Threshold Planning Quantity ("TPQ") or any OSHA hazardous substance present at the Facility in an amount equal to or greater than 10,000 pounds to the State Emergency Response Commission ("SERC"), the Local Emergency Planning Committee ("LEPC"), and the local fire department within three (3) months of their acquisition.
- d. **Emergency Coordinator:** The Power Authority shall appoint an Emergency Coordinator and shall notify the SERC and the LEPC of such appointment within 60 days of an EHS being present at the Facility in an amount equal to or greater than such EHS's TPQ.
- e. **Facility Inventory Forms and 209-U Forms:** After the O&M Commencement Date, the Power Authority shall be responsible for the filing of all Facility Inventory Forms ("FIF"), 209-U forms and any other forms relating to the disclosure of Hazardous Substances that may be required under Applicable Law and for the payment of all associated filing fees, and shall provide: Con Edison with a copy of each such filing. Con Edison shall be responsible for providing Power Authority with information related to the chemical inventory under Con Edison's custody and control at the Facility in sufficient time to allow Power Authority to complete the required forms.

12.5. **Environmental Indemnification:**

- a. The Power Authority shall indemnify, defend, and hold harmless Con Edison, its affiliates and their respective directors, officers, shareholders, and employees (collectively, the "**Con Edison Indemnified Parties**") for any and all Environmental Liabilities arising out of or in connection with (i) the existence of or any actual or threatened Release or Discovery on, over, above, under or around the Easement Area and any migration of Hazardous Substances on, to or through the Con Edison Lands; (ii) any initial control and containment of a Release in the Easement Area; (iii) Required Remediation; (iv) the Additional Work, (v) the Risks, and (vi) the transportation and disposal of any and all wastes from the Facility and the Easement Area, as well as any and all wastes subject to Required Remediation on the Con Edison Lands that occurs from the date of the Power Authority ownership of the Additional Equipment forward. This obligation shall include the burden and expense of defending all claims, suits and administrative proceedings and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against the Con Edison Indemnified Parties.

12.6. Environmental Notices:

- a. Except as expressly provided in this Article 12, all notices and other communications required or contemplated under this Article 12 shall be in writing and shall be delivered by United States Postal Service, by Federal Express or other private courier service or hand delivered, or e-mailed to:

If to the New York Power Authority:

Name: Steve Rutledge

Address: 123 Main Street

White Plains, NY 10601-3170

E-mail: Steve.Rutledge@nypa.gov

Telephone: 914-287-3407

If to Con Edison:

Name: Con Edison SSO Manager

Address: Consolidated Edison Company of New York, Inc.

4 Irving Place, New York, NY 10003

E-mail: dl-ssoopsmgmt-bqsi@coned.com

Telephone: 212-460-6564

- 12.7. Survival:** The Parties obligations under this Article 12 shall survive the termination or expiration of this Third Composite Agreement.

ARTICLE 13
SF6 GAS EQUIPMENT

- 13.1. Certain Power Authority-owned equipment at the Facility will contain sulfur hexafluoride ("SF6") gas (the "SF6 Gas Equipment"). During the construction or commissioning of the Facility, any leakage of SF6 gas from the equipment or otherwise, shall be calculated by the Power Authority's vendor or contractor and reported to the proper Governmental Authorities by the Power Authority. Prior to Con Edison's acceptance of the Facility, the Power Authority will certify that all SF6 Gas Equipment is free of leaks and that any SF6 emissions that occurred during construction or commissioning of the Facility have been reported to the proper Governmental Authorities in accordance with Environmental Laws, including 6 NYCRR Part 495. Con Edison shall have the right to conduct its own check of the equipment and Facility to ensure that the SF6 equipment has been delivered free of leaks. Con Edison shall report any leaks that are discovered to the Power Authority and Con Edison will be responsible for fixing the leaks.

- 13.2. Responsibilities of the Parties with respect to SF6 Gas Equipment

13.2.1 The Power Authority's Responsibilities

As set forth in detail on **Exhibit C**, the Power Authority shall be responsible for: (i) supplying all equipment that is necessary to maintain, test and replace any SF6 Gas Equipment at the Facility; (ii) pursuant to Section 4.2.8 above, provide all training it requires for the handling of SF6 Gas Equipment to Con Edison personnel at the Power Authority's sole cost and expense; (iii) reporting to the proper Governmental Authorities all releases and losses of SF6 gas to the environment; and (iv) compliance with 6 NYCRR Part 495, including recordkeeping, reporting, inventory tracking, and record retention and making record available for inspection.

13.2.2 Con Edison's Responsibilities

As set forth in detail on **Exhibit C**, Con Edison shall be responsible for (i) handling all SF6 gas and SF6 Gas Equipment at the Facility in a manner that minimizes releases; and (ii) for tracking SF6 gas usage and releases at the Facility; and (iii) for reporting such usage and releases of SF6 gas to the environment to the Power Authority. Con Edison will only permit personnel who are the aware of the risks associated with SF6 gas and the need to minimize leaks and releases of SF6 gas to work on the SF6 Gas Equipment.

ARTICLE 14 COMPLIANCE MODIFICATIONS AND UPGRADES

- 14.1. In the event that the Facility requires any construction, alteration, modification to comply with Applicable Legal Requirements ("**Compliance Modifications and Upgrades**"), the Power Authority at its sole cost and expense, shall engineer, procure equipment, and perform the construction, alteration and modification for the Compliance Modifications and Upgrades in accordance with Good Industry Practice, Con Edison Standards and other reasonable conditions required by Con Edison.
- 14.2. The Power Authority shall provide for coordination for Con Edison review of plans, construction oversight, and reimbursement to Con Edison for all such costs and expenses.
- 14.3. The Power Authority shall deliver to Con Edison "as built" drawings, plans, information, and any other documents that are reasonably required by Con Edison, and provide, at the Power Authority's sole cost and expense, all training to assure that Con Edison is equipped and prepared to perform the Scope of Work hereunder.
- 14.4. Con Edison shall approve and accept for operation and maintenance the Compliance Modifications and Upgrades to the extent engineered, procured, and constructed in accordance with this Article 14- Compliance Modifications and Upgrades; thereafter, the Power Authority shall transfer operation and maintenance of the Compliance Modifications and Upgrades to Con Edison and operation and maintenance of such Compliance Modifications and Upgrades shall be included within Con Edison's Scope of Work, except to the extent limited in writing by the Parties.

**ARTICLE 15
SUPERSEDEENCE**

- 15.1. So long as this Third Composite Agreement shall remain in effect it supersedes any applicable, conflicting portions of the Astoria Unit 6 Operating Agreement dated January 9, 1981, and any subsequent amendments.

**ARTICLE 16
FORCE MAJEURE**

- 16.1. Except for obligations to make payments when due, each party shall be excused from performance under this Third Composite Agreement to the extent the party is prevented from or delayed in performing for any reason beyond its reasonable control, including, but not limited to, acts of God, acts or failures to act of any governmental authority or of the other party, accidents, strikes or other labor disputes, declared or undeclared wars, riots, inclement weather, fires, floods, failures or delays of sources of supply and failures or delay in transportation ("**Force Majeure**").

**ARTICLE 17
DEFAULT**

17.1 **General.** No Breach shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this Third Composite Agreement or the result of an act or omission of the other Party. Upon a Breach, the non-Breaching Party shall give written notice of such to the Breaching Party. The Breaching Party shall have thirty (30) Calendar Days from receipt of the Breach notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Breach notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

17.2 **Right to Terminate.** If a Breach is not cured as provided in this Article 17, or if a Breach is not capable of being cured within the period provided for herein, the non-Breaching Party shall thereafter have the right to declare a Default and terminate this Third Composite Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not the Parties terminate this Third Composite Agreement, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which they are entitled at law or in equity. The provisions of this Article will survive termination of this Third Composite Agreement.

**ARTICLE 18
INSURANCE**

- 18.1. The Power Authority shall procure and maintain the following insurance at its own expense throughout the Term of this Third Composite Agreement, with at least the monetary limits specified. The insurance shall be placed with insurance companies licensed to write insurance or approved eligible insurance carriers with a minimum A.M. Best financial strength

rating of A or better and financial size category of VIII or better or insurance companies acceptable to Con Edison. The Power Authority may self-insure any or all of the required coverages and will provide written evidence of such self-insurance programs for Con Edison's review. Policy deductibles and/or self-insured retentions on any insurance required by this Article 18 shall be permitted only if such deductibles and/or self-insured retentions are commensurate with Good Industry Practice and acceptable to Con Edison. The Power Authority shall be required to notify Con Edison in writing of any increase in policy deductible and/or self-insured retention at least thirty (30) days prior to the effective date of any such policy deductibles/self-insured retention so that Con Edison can give the Power Authority notice of any objection(s). The parties shall work in good faith to resolve any such objection(s) to the proposed policy deductibles.

- 18.1.1 Commercial General Liability Insurance, including contractual liability ("CGL") with limits of \$35,000,000 per occurrence. The Authority may elect, at its option, to self-insure the first \$2 million in coverage. The insurance shall contain no exclusions for explosion, collapse of a building or structure, or underground hazards.

The insurance policy or policies shall name Con Edison and Consolidated Edison, Inc. as additional insureds.

- 18.1.2 Comprehensive Automobile Liability Insurance ("CAL"), covering all owned, non-owned and hired automobiles used by the Power Authority's Contractors or any subcontractors, with limits of \$1,000,000 per claim for bodily injury or death and for property damage.
- 18.1.3 Statutory workers' compensation insurance as required by all applicable laws and employer's liability insurance, including in respect of accidents and occupational diseases (with a limit of not less than \$1 million per accident) and occupational diseases (with a limit of not less than \$1,000,000 per employee and \$1,000,000 per policy limit).
- 18.1.4 For all of the insurance required by this Article 18, except workers' compensation, Power Authority shall name both Consolidated Edison, Inc. and Consolidated Edison Company of New York, Inc. as additional insureds for the full specified limits required herein, and such insurance shall be primary and non-contributory coverage as to such additional insureds. All insurance policies of the Power Authority required herein shall include waivers of subrogation in favor of Consolidated Edison, Inc. and Consolidated Edison Company of New York, Inc.
- 18.1.5 Power Authority shall, or Power Authority cause Astoria Energy II to, procure and maintain Builders Risk Insurance, including boiler and machinery coverage, covering the Astoria Annex Substation on an all-risk basis, including flood and earth movement coverage, on a full replacement cost value basis until final completion, successful testing and acceptance of the Second Power Block and the Astoria Annex Substation.

- 18.1.6 The Power Authority shall procure and maintain Property Insurance, including boiler and machinery coverage, covering the Astoria Annex Substation on an all-risk basis, including flood and earth movement coverage, on a full replacement cost value basis to cover the Astoria Annex Substation for the Term of this Third Composite Agreement.
- 18.2. At least thirty (30) days prior to the first O&M Commencement Date, the Power Authority shall furnish Con Edison with Certificate(s) of Insurance covering all required insurance, signed by the insurer or its authorized representative, certifying that the required insurance has been obtained. Such certificates shall state that the policies have been issued and are effective, show their expiration dates, and state that Con Edison is an additional insured with respect to all coverage's enumerated in paragraph 18.1 above. Power Authority shall provide Con Edison with at least thirty (30) days written notice prior to the effective date of cancellation of the insurance or of any changes in policy limits or scope of coverage.
- 18.3. Con Edison shall have the right to require the Power Authority and, as applicable, to cause the Power Authority to request Power Authority's Contractors to provide reasonable increases to the policy limits of all CGL insurance and CAL insurance provided that no such increases shall be made within the first four (4) years of the Term of this Third Composite Agreement.
- 18.4. The Power Authority agrees that this is an insured contract. The insurance required herein is intended to cover Con Edison for its own liability (except for liability stemming from Con Edison's own sole gross negligence) or any other cause of action in any claim or lawsuit for bodily injury or property damage arising out of the Additional Work, Risks, O&M Services and/or this Third Composite Agreement.
- 18.5. For purposes of interpretation or determination of coverage of any policy of insurance or endorsement thereto, Power Authority shall be deemed to have assumed tort liability for any injury to any Power Authority Contractors, Con Edison or any contractors hired by Con Edison arising out of the performance of the work, including injury caused by the partial or sole negligence of Con Edison (except for liability stemming solely from Con Edison's own gross negligence) and notwithstanding any statutory prohibition or limitation of Power Authority's obligations hereunder.
- 18.5.1 The Power Authority's Contractors shall be required to procure and maintain Workers' Compensation and Employer's Liability insurance, CAL with limits not less than \$1,000,000 per occurrence and CGL with limits not less than \$7,500,000 per occurrence and such insurance may be satisfied through primary and excess policies and must name Con Edison and Consolidated Edison Inc as additional insureds. The Power Authority's Contractors and subcontractors must name Con Edison and Consolidated Edison Inc. as additional insured's. Depending on the particular scope of work of any of the Power Authority's Contractors, the Power Authority may request that Con Edison require CGL limits per occurrence of not less than \$5,000,000. Con Edison's approval of such requests shall not be unreasonably withheld.

18.5.2 Con Edison's contractors and subcontractors hired for any portion of the performance of the O&M Services shall be required to procure and maintain Workers' Compensation and Employer's Liability insurance, CAL with limits not less than \$1,000,000 per occurrence and CGL with limits not less than \$7,500,000 per occurrence and such insurance may be satisfied through primary and excess policies and must name the Power Authority as an additional insured (Con Edison shall be allowed to self-insure these coverages and will provide evidence of such insurance programs). Con Edison's and the Power Authority's Contractors and subcontractors' insurance will be primary and non-contributory to any insurance carried by the Power Authority, Con Edison, and Consolidated Edison, Inc. All insurance policies of the Power Authority's Contractors and Con Edison's contractors and subcontractors' shall include waivers of subrogation in favor of the Power Authority, Consolidated Edison, Inc. and Consolidated Edison Company of New York, Inc.

18.6. Certificates of insurance identifying the Insurance required by this Article 19 shall be sent to:

Consolidated Edison Company of New York, Inc.
4 Irving Place, New York, NY 10003
Attention: Substation Operations / Queens NYPA Annex Personnel
E-mail: dl-ssoopsmgmt-bqsi@coned.com

New York Power Authority
123 Main Street
White Plains, New York 10601
Attention: Insurance/Risk Management, 16th Floor

ARTICLE 19 INDEMNIFICATION, NO CONSEQUENTIAL DAMAGES, OUTAGES

19.1. **Indemnification/Limitation of Liability.** To the fullest extent permitted by law, the Power Authority shall indemnify, defend, and hold harmless Con Edison, its trustees, officers, employees, and agents (collectively, the "**Protected Parties**") from and against any and all direct claims, actions, liabilities, damages, costs, and expenses (including without limitation reasonable attorney fees and other legal costs and expenses), whether based in contract, tort or otherwise, which are asserted, suffered, or incurred by any person or entity (including the Power Authority and the Protected Parties) and which arise from, relate to, or are connected with (i) the services, goods and/or materials furnished by Con Edison hereunder or performed by contractors hired by Con Edison, including, but not limited to, the O&M Services (ii) any act or omission of the Power Authority and/or the Power Authority's Contractors, (iii) the Additional Work, (iv) the Risks as defined in the entire section 4.1, (v) Compliance Modifications and Upgrades, and/or (vi) any and all violations of NERC Reliability Standards, NPCC Reliability Standards, FERC, NPCC Directories and/or NPCC Criteria Requirements that occurred prior to the O&M

Commencement Date and/or during the Term, until Con Edison has assumed the obligation to comply with each individual NERC Reliability Standard, as provided for in section 3.1 herein, and/or (vi) a breach of this Third Composite Agreement by the Power Authority, including but not limited to, any breach of Power Authority's warranties and representation contained herein.

To the fullest extent permitted by law, the Power Authority hereby irrevocably and unconditionally agrees to release and forever discharge the Protected Parties from any and all liability for any violations of NERC Reliability Standards, NPCC Reliability Standards, FERC, NPCC Directories and/or NPCC Criteria Requirements and to waive any and all rights to recover any costs, fines and/or penalties from the Protected Parties or any of them in the future for the period prior to Con Edison assuming the obligation to comply with such NERC Reliability Standards.

- 19.2. **No Consequential Damages.** To the fullest extent permitted by law, neither the Protected Parties nor the Power Authority shall be liable, whether in contract, tort (including negligence, gross negligence, and strict liability), or otherwise, for any special, indirect, incidental, or consequential damages (including but not limited to damage, loss, liability, costs, and expenses resulting from loss of use, loss of business or business opportunities, loss of profits or revenue, costs of capital, loss of goodwill, claims of customers, claims of unrelated companies and other third parties, cost of purchased or replacement power, and like items of special, indirect, incidental, or consequential loss and damage) asserted, suffered, or incurred by any person or entity (including the Power Authority and the Protected Parties), which arise from, relate to or are connected with the services, goods and/or materials furnished by Con Edison hereunder regardless of whether or not such damages, loss, liability, costs or expenses are caused in whole or in part by the acts or omissions (including negligence, gross negligence or willful acts) of the Protected Parties or any of them. The damages referred to in this Paragraph 19.2 are hereinafter referred to as the "**Consequential Losses.**" To the fullest extent permitted by law, the Power Authority hereby irrevocably and unconditionally agrees to release and forever discharge the Protected Parties from any and all liability for any Consequential Losses and to waive any and all rights to recover any Consequential Losses from the Protected Parties or any of them in the future. To the fullest extent permitted by law, the Protected Parties hereby irrevocably and unconditionally agree to release and forever discharge the Power Authority from any and all liability for any Consequential Losses and to waive any and all rights to recover any Consequential Losses from the Protected Parties or any of them in the future.
- 19.3. **Enforceability.** If a court of competent jurisdiction determines that any provision or application of any provision of 19.1 or 19.2 of this Article 19 is unenforceable, the cumulative liability of the Protected Parties with respect to anything done in connection therewith (whether such liability is based on contract, tort (including negligence, gross negligence, and strict liability) or otherwise, shall not exceed the price of the services, goods and/or materials on which such liability is based. If a court of competent jurisdiction determines that any provision 19.1 or 19.2 of this Article 19 or the preceding sentence of this Paragraph 19.3 is unenforceable, such court shall limit the operation of such provision so as to give it the effect intended to the fullest extent permitted by law.

- 19.4. **Manpower Limitations/ Con Edison Emergencies.** Con Edison's obligation to furnish the O&M Services shall, at all times (including, without limitation, during any period after which work has commenced to furnish such services, goods or materials), be subject to the availability of Con Edison personnel to furnish such services, goods or materials, taking into account the services, goods or materials to be furnished to the Power Authority and the need for Con Edison personnel to furnish services, goods or materials relative to Con Edison's electric, gas and/or steam systems, which availability shall be determined in the sole discretion of Con Edison. Without limitation of any provision of this Third Composite Agreement that excuses or limits liability, any failure or delay by Con Edison in furnishing any services, goods or materials due to such unavailability of Con Edison personnel (such unavailability being determined in the sole discretion of Con Edison) shall be excused and shall not give rise to any liability. Con Edison will endeavor to provide the Power Authority with such advance notice as may be practicable under the circumstances of the unavailability of its personnel as described in this Paragraph.
- 19.5. **Outages.** Since actual scheduled outages to perform work at the Facility are subject to NYISO approval, such approval is beyond the control of Con Edison, and Con Edison shall not in any fashion be liable to the Power Authority or any third parties for any delay in the NYISO's approval of such Facility scheduled outages. If an Emergency situation (including without limitation, a blackout or facility outage that could result in load loss) should occur on its system that would require diversion of the personnel performing the O&M Services, then such Emergency will be deemed a Force Majeure event and treated in accordance with the Force Majeure provisions of this Third Composite Agreement. In addition, Con Edison will not be liable for any delay or NYISO outage denial that is related to the Power Authority's responsibilities under this Third Composite Agreement or otherwise. Power Authority acknowledges and agrees that any outage may be cancelled by Con Edison on little or no notice, or for any reason whatsoever, with Con Edison having no liability.
- 19.6. **Coordination and Communication with the NYISO.**
- 19.6.1 **Removal of equipment from service and coordination of scheduled outages.** All scheduled work at the Facility shall be scheduled utilizing Con Edison's Outage Scheduling System. Such outages will be coordinated by Con Edison Substation Operations' Planning Department. If regular and routine maintenance requires a full or partial outage of the Facility, Con Edison shall use reasonable efforts to schedule such work to reasonably coincide with planned plant or Facility outages. Con Edison shall notify the NYISO of all scheduled, forced or Emergency outages at the Facility on behalf of the Power Authority as outlined in the Outage Scheduling Policy section of the NYISO Outage Scheduling Manual. Con Edison shall notify the Power Authority, either verbally or in writing, of all upcoming scheduled outage work at the Facility.
- 19.6.2 **Generator Derates and Basepoints.** Con Edison shall adhere to standard communication protocols between the NYISO and Astoria Energy II (and such communication channels with CHPE that will be established) via the Con Edison Energy Control Center as established by the NYISO communication protocols for

communication between generating facilities and the NYISO, as may be amended from time to time.

- 19.6.3 **Additional Third-Party Generators.** At the point when the Power Authority reasonably determines that it is likely that a new third-party generator may interconnect to the Astoria Annex Substation, the Power Authority shall provide Con Edison prompt written notice of same and Con Edison shall be allowed to participate, at reasonable intervals, in the discussions between the Power Authority and any such third-party Generator. In addition, at reasonable intervals, the Power Authority shall provide written notice of the status of negotiations between the Power Authority and the proposed interconnection of any new third-party generator to the Astoria Annex Substation.
- 19.7. Notwithstanding anything to the contrary in this Article 19, Power Authority and Con Edison agree that Article 12 of this Third Composite Agreement, rather than Article 19, shall govern the matters that are the subject of such Article 12 in accordance with the terms set forth in Article 12.
- 19.8. The provisions and obligations of this Article 19 shall survive the expiration or earlier termination or of this Third Composite Agreement.

ARTICLE 20

NO WARRANTY/ DISCLAIMERS

- 20.1. Con Edison shall have no responsibility for any matter caused by the acts or omissions of others, including any improper installation, construction, testing, maintenance, repair, modification or operation of the Facility or any portion thereof on which Con Edison has rendered O&M Services.
- 20.2. ANY GOODS OR MATERIALS THAT MAY BE FURNISHED BY CON EDISON HEREUNDER ARE SOLD AS IS AND WHERE IS. Any description of the goods contained in any document relating to this sale is for reference purposes only and is not intended to be construed as a warranty relating to condition or completeness.
- 20.3. THE FOREGOING APPLICABLE WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE), ALL OF WHICH OTHER WARRANTIES ARE HEREBY DISCLAIMED.
- 20.4. Notwithstanding anything contained herein to the contrary, any inspection of the Facility or acceptance of the Facility, or any aspect thereof, by Con Edison, either before, during or after construction, installation, or expansion thereof, does not constitute any representation, warranty, or assumption of liability by Con Edison, or any release of the Power Authority's obligations or warranties hereunder, or under the Easement Grant or any other contract, with respect to any aspect thereof whatsoever.

- 20.5. Approval by Con Edison of any document, plan, design, including but not limited to, SPCC plans, SWPPP, Permits, Environmental Permits, remediation plans, or any other item, shall not in any way release the Power Authority or the Power Authority's Contractors from its or their own responsibilities and obligations required by this Third Composite Agreement or otherwise, including but not limited to, Applicable Legal Requirements, Environmental Laws, Environmental Permits, Good Industry Practice, or other good and reasonable professional conduct, nor shall such approval by Con Edison constitute an assumption by Con Edison of any responsibility in any way, shape, or form.
- 20.6. All questions concerning interpretation of the Con Edison Standards shall be referred to the appropriate Con Edison Department, whose determination shall be conclusive.

ARTICLE 21 CONFIDENTIALITY

- 21.1. All specifications, drawings, technical information, reports, estimates, preliminary budget information and budgets furnished by Con Edison and/or third parties retained by Con Edison or the Power Authority in connection with this Third Composite Agreement are intended for the sole use of the Power Authority in determining the completeness of the work performed and for use in the continued operation and/or maintenance of the Facility. Except as required by law, disclosure by the Power Authority to third parties of documents created by Con Edison and/or third parties retained by Con Edison is prohibited without the prior written consent of Con Edison. All specifications, drawings, technical information and reports furnished by the Power Authority or its contractors in connection with this Third Composite Agreement are intended for the sole use of Con Edison in connection with its performance under this Third Composite Agreement. Disclosure by Con Edison of such documents to third parties is prohibited without the prior written consent of the Power Authority.

ARTICLE 22 RIGHT TO INSPECT/ OBSERVE TESTING

- 22.1. The Power Authority shall notify Con Edison at least two (2) Business Days in advance of its maintenance and calibration of the revenue metering equipment, and Con Edison shall have the right to observe such work.
- 22.2. Con Edison may exercise these rights from time to time as it deems necessary upon reasonable notice to the Power Authority. The exercise or non-exercise by Con Edison of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Facility.
- 22.3. The Power Authority may exercise these rights from time to time as it deems necessary upon reasonable notice to Con Edison. The exercise or non-exercise by the Power Authority of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Facility.

ARTICLE 23
ACCESS

- 23.1. **Access.** The Power Authority's or the Power Authority's Contractors' access to the Con Edison Lands and the Facility shall be subject to Con Edison's control and security requirements, including but not limited to identification cards, OSHA cards, etc.

ARTICLE 24
CHANGES

24.1 Con Edison reserves the right at any time to make changes to its O&M Services if such changes are not inconsistent with this Third Composite Agreement. Such changes may include increases in periodicity of the PMPs, changes to repair or service methodology, the number of personnel assigned, tool usage, repair or fabrication methods, supervision assigned and/or work hours and other similar changes.

ARTICLE 25
AMENDMENTS

- 25.1. No amendment to this Third Composite Agreement shall be valid or binding unless in writing and signed by authorized representatives of the Parties.

ARTICLE 26
ASSIGNMENTS; SUCCESSORS

- 26.1. This Third Composite Agreement shall bind, and inure to the benefit of, the respective successors and assigns of the parties hereto. This Third Composite Agreement may not be assigned or transferred by either party, in whole or in part, without the written consent of the other, not to be unreasonably withheld. Any purported assignment or transfer without such consent shall be void. It shall be a condition of any assignment that the assignee agree in writing to perform the obligations of the assignor under this Third Composite Agreement. Assignment shall not relieve the assignor of responsibility for the performance of its obligations or liabilities incurred prior to the date of assignment.

ARTICLE 27
ENTIRE AGREEMENT

- 27.1. This Third Composite Agreement, as it may be amended in accordance with Article 25 hereof together with the Easement Grant, contains the entire agreement and understanding of the Parties with respect to the subject matter hereof. Except as provided in Section 2.1, any other prior or contemporaneous understandings oral or written affecting the subject matter of this Third Composite Agreement are merged into this Third Composite Agreement. This Third Composite Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one in the same instrument, it being understood that Con Edison and Power Authority need not sign the same counterpart. The Third Composite Agreement and any counterpart thereof may be delivered by email and, if this Third Composite Agreement or any counterpart

thereof is delivered by email, they shall together with the signature(s) or copies of the signature(s) thereon, be treated for all purposes as originals that have been delivered.

ARTICLE 28 CONFLICTING DOCUMENTS

- 28.1. **Conflicting Documents.** Solely with respect to the Parties' obligation with respect to this Third Composite Agreement, to the extent, if any, that this Third Composite Agreement and any specifications, plans, drawings and other documents that may be incorporated herein conflict with the Easement Grant, the terms of this Third Composite Agreement and any specifications, plans, drawings and other documents that may be incorporated herein shall take precedence and govern. All rights and remedies provided by this Third Composite Agreement and the Easement Grant, shall, unless otherwise specified herein, be deemed to be cumulative so as to exist in addition to one another and to any other rights and remedies provided by law.

ARTICLE 29 GOVERNING LAW; SEVERABILITY

- 29.1. This Third Composite Agreement shall be governed by and constructed in accordance with the laws of the State of New York. If any provision or portion thereof of this Third Composite Agreement, of the application thereof to any persons or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Third Composite Agreement, or the application of said provision or portion thereof to any other persons or circumstances, shall not be affected thereby, and each provision of this Third Composite Agreement shall be valid and enforceable to the fullest extent permitted by the law.

ARTICLE 30 HEADINGS

- 30.1. The Article and Section headings herein are for convenience and reference only, and in no way define or limit the scope and content of this Third Composite Agreement or in any way affect its provisions.

ARTICLE 31 NO THIRD-PARTY RIGHTS

- 31.1. Nothing in this Third Composite Agreement, express or implied, is intended to confer on any person, other than the Parties hereto, their successors or assigns, any rights or remedies under or by reason of this Third Composite Agreement.

ARTICLE 32 NOT PARTNERS

- 32.1. Con Edison shall be an independent contractor in the performance of the O&M Services hereunder. Nothing contained in this Third Composite Agreement shall be construed to make the parties partners or joint ventures or to render either party liable for the debts or obligations of the other. No right of supervision, inspection, requirement or approval or

other provision of this Third Composite Agreement and no conduct of the parties shall be construed to create a relationship of principal and agents, partners or joint ventures between the parties, or joint employers of the Power Authority's Contractors.

ARTICLE 33 NOTICES

- 33.1. Except where otherwise specifically provided in this Third Composite Agreement, including but not limited to Article 12, Environmental Notices, any notice, demand or request required or authorized by this Third Composite Agreement shall be in writing and will be deemed to have been duly given if mailed by United States registered or certified mail (return receipt requested), postage prepaid, if to Con Edison, to:

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003
Attention: Vice President Substation Operations
And: Vice President System & Transmission Operations

With courtesy copies by mail and email to:

Consolidated Edison Company of New York, Inc.
Transmission Project Development
4 Irving Place, 13th Floor
New York, New York 10003
Attention: TPD Project Manager
Email: dl-sto-cep@coned.com

Consolidated Edison Company of New York, Inc.
Substation Operations
98-40 Christie Avenue
Flushing, New York 11368
Attention: General Manager Central Ops
Email: henriqueza@coned.com

With a courtesy copy by mail to:

Consolidated Edison Company of New York, Inc.
Law Department
4 Irving Place
New York, New York 10003
Attention: Associate General Counsel – Commercial Transactions

And if to the Power Authority, to:

New York Power Authority
Clark Energy Center
6520 Glass Factory Road
P/O Box 191
Marcy, NY 13403
Attention: Vice President-Transmission

With a courtesy copy to:

New York Power Authority
123 Main Street
White Plains, New York 10601
Attention: General Counsel

The addresses and persons to be notified may be changed at any time by similar notice.

ARTICLE 34 WAIVER

- 34.1. No delay or omission by either party to exercise any right or power accruing upon a non-compliance or failure of performance by the other party shall impair that right or power or be construed to be a waiver thereof. A waiver by either party of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed to be a waiver of any subsequent breach hereof or of any covenant or condition contained in this Third Composite Agreement.

[Remainder of page intentionally left blank]

IN WITNESS THEREOF, the parties have executed this Third Composite Agreement by their duly authorized representatives as of the date first written above.

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: Angel L. Cardoza
Angel L. Cardoza Doc: E-3203, 1/6/22 02:06:51
Name: Angel L. Cardoza
Title: Vice President of System and Transmission Operations

NEW YORK POWER AUTHORITY

By: John L. Canale
John L. Canale Doc: E-3203, 1/6/22 02:06:51
Name: John Canale
Title: Senior Vice President of Strategic Supply Management

Exhibit A-1

Existing Equipment

The Existing Equipment contains CEII material and has been deleted from public version of agreement.

Exhibit-A-2

Additional Equipment

The Additional Equipment contains CEII material and has been deleted from public version of agreement.

EXHIBIT B

SF6 Equipment Tracking Cylinder Log

Location:

Date	Cylinder Serial#	Actual weight before maint.(lbs) (A)	Actual weight after maint.(lbs) (B)	Gas added to equipment (A-B)	Equipment description

EXHIBIT C

Power Authority Terms and Requirements

This exhibit contains confidential and proprietary Power Authority information and has been deleted from public version of agreement.

EXHIBIT D

“Minor Spare Parts”, “Major Spare Parts”, and “Other Parts and Equipment”

List of spare parts and other parts and equipment contains CEII material and has been deleted from public version of agreement.

EXHIBIT E

Survey for Easement Agreement

The survey contains CEII material and has been deleted from public version of agreement.

EXHIBIT F

CRM Matrix

The CRM Matrix contains CEII material and has been deleted from public version of agreement.

APPENDIX A

Con Edison SSO specification 0100-0022/11

Con Edison's specification contains CEII material and has been deleted from public version of agreement.

APPENDIX B

Con Edison Specification CE-ES-1022/09 Testing of AC Feeders Operating at 69kv through 345kv

Con Edison's specification contains CEII material and has been deleted from public version of agreement.

APPENDIX C

Con Edison ES-1003 Installation and Test Specification for Oil and Synthetic Ester Immersed Power Transformers, Reactors and Regulators

Con Edison's specification contains CEII material and has been deleted from public version of agreement.

APPENDIX D-1

Con Edison ES-1000/13 Preventative Maintenance Inspection of Electric Station Equipment

Con Edison's specification contains CEII material and has been deleted from public version of agreement.

APPENDIX D-2

Central Operations 0400-0400 Rev. 9.0 Protection System Maintenance Program

Con Edison's specification contains CEII material and has been deleted from public version of agreement.

APPENDIX E

Con Edison 2025 Accommodation Services Charges

Con Edison's accommodation rate schedule contains confidential and proprietary information and has been deleted from public version of agreement.

APPENDIX F

Power Authority Prompt Payment Policy



APPENDIX B - PROMPT PAYMENT STATEMENT

The New York Power Authority (the "Authority") is providing this statement pursuant to Section 2880 of the New York Public Authorities Law, which states that each contractor doing business with the Authority must receive a copy of the Authority's rules and regulations detailing its prompt payment policy.

A. GENERAL

1. This statement is intended to establish rules and regulations as required under Section 2880 of the Public Authorities Law describing the policy of the Power Authority of the State of New York (the "Authority"). Subject to the conditions and exceptions set forth in Section 2880 and herein, in the event any proper invoice is not paid promptly the Authority shall be liable for the payment of interest on late payments. This policy shall apply to all Contracts entered into on or after April 30, 1988.

B. DEFINITIONS

1. "CONTRACT" means an enforceable agreement entered into between the Authority and a Contractor.
2. "CONTRACTOR" means any person, partnership, private corporation, or association: (1) selling materials, equipment or supplies or leasing property or equipment to the Authority; (2) constructing, reconstructing, rehabilitating or repairing buildings, highways or other improvements for or on behalf of the Authority; or (3) rendering or providing services to the Authority pursuant to a Contract.
3. "DESIGNATED PAYMENT OFFICE" means the office designated by the Authority to which a proper invoice is to be submitted by a Contractor.
4. "PROPER INVOICE" means a written request for a Contract payment that is submitted by a Contractor to the Authority's designated payment office setting forth the description, price and quantity of goods, property or services delivered or rendered in accordance with the terms of the Contract, in such form and supported by such other substantiating documentation as the Authority may reasonably require.
5. "RECEIPT OF AN INVOICE" and "INVOICE RECEIVED DATE" mean the later of: (1) the date on which a proper invoice is actually received in the designated payment office, or (b) the date on which the Authority receives the purchased goods, property, or services covered by the proper invoice which, with regard to final payments on construction contracts, shall mean the date on which all the Contract work has been accepted as completed by the Authority in accordance with the Contract terms.
6. "SET-OFF" means the reduction by the Authority of a payment due a Contractor by an

amount equal to the amount of an unpaid legally enforceable debt owed by the Contractor to the Authority.

C. RESPONSIBILITY FOR PROMPT PAYMENT

1. The Authority's Controller shall have the responsibility for the implementation of the Prompt Payment Policy and the prompt payment of all proper invoices under the general guidance and supervision of the Executive Vice President & Chief Financial Officer.

D. PROMPT PAYMENT PROCEDURE

1. A Contractor shall request payment under a Contract by submitting a proper invoice to the Authority at its designated payment office at the time and in the manner specified in the Contract.
2. The Authority shall have fifteen (15) calendar days after receipt of an invoice at its designated payment office to notify the Contractor of certain facts and conditions, including but not limited to those listed below, which, in the opinion of the Authority's Controller, justify extension of the statutory payment period.
 - a) there is a defect in the delivered goods, property or services;
 - b) there is a defect in the invoice;
 - c) there are suspected defects or improprieties of any kind, the existence of which prevent the commencement of the statutory payment period;
 - d) prior to payment, a statutory or contractual provision requires an inspection period or an audit to determine the resources applied or used by the Contractor in fulfilling the contract terms;
 - e) a proper invoice must be examined by the Federal government prior to payment;
 - f) the Authority is prevented from making payment by reason of the filing of a lien, attachment, other legal process or requirement of law.

Any time taken to satisfy or rectify any such facts or conditions shall extend the date by which contract payment must be made in order for the Authority not to become liable for interest payments by an equal period of time.

3. Should the Authority fail to notify a Contractor of such facts and conditions within fifteen (15) calendar days of the invoice received date, the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the fifteenth day and the day that notification was transmitted to the Contractor. Should the



Authority, in such situations, fail to provide reasonable grounds for its contention that a fact or condition justifying a time extension exists, the date by which contract payment must be made in order for the Authority not to become liable for interest payment shall be calculated from the invoice received date.

4. The Authority shall make payment within forty-five (45) calendar days after the invoice received date. Effective July 1, 1989, the Authority shall make payment within thirty (30) calendar days, excluding legal holidays, after invoice received dates occurring after that date.
5. Except for the payments described in Paragraph E, every payment by the Authority to a Contractor pursuant to a Contract is eligible for interest should the Authority fail to make such payment within forty-five (45) days after the invoice received date for contracts entered into between April 30, 1988 and June 30, 1989 and within thirty (30) days for contracts entered into on or after July 1, 1989.
6. The Authority shall not be liable for interest on any retention amounts withheld by the Authority in accordance with the terms of the Contract.
7. Interest shall be computed at the rate set by the state tax commission for corporate taxes pursuant to paragraph one of subsection (e) of Section 1096 of the Tax Law, but the Authority shall not be liable for payment of interest when such interest is less than ten dollars.
8. The Authority has available funds in its custody to pay all interest penalties.

E. EXCEPTIONS

1. Payments are not eligible for interest when they are due and owing by the Authority:
 - a) under the Eminent Domain Procedure Law;
 - b) as interest allowed on a judgment by a court pursuant to any provision of law other than section 2880 of the Public Authorities Law;
 - c) to the Federal government; to any State agency or its instrumentalities; to any duly constituted unit of local government, including but not limited to counties, cities, towns, villages, school districts, or any of their related instrumentalities; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;
 - d) in situations where the Authority exercises a legally authorized set-off against all or part of the payment due the Contractor.