

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE SECRETARY

In the Matter of

ENTERGY NUCLEAR OPERATIONS, INC.;
ENTERGY NUCLEAR INDIAN
POINT 2, LLC; ENTERGY NUCLEAR
INDIAN POINT 3, LLC; HOLTEC
INTERNATIONAL; and HOLTEC
DECOMMISSIONING INTERNATIONAL,
LLC; APPLICATION FOR ORDER
CONSENTING TO TRANSFERS OF
CONTROL OF LICENSES AND
APPROVING CONFORMING LICENSE
AMENDMENTS

Docket Nos.:
50-3
50-247
50-286
72-051

(Indian Point Nuclear Generating Station)

DECLARATION OF ALYSE L. PETERSON

I, Alyse L. Peterson, declare and state as follows:

1. I am a Senior Advisor for Nuclear Coordination and Radioactive Waste Policy at the New York State Energy Research and Development Authority (NYSERDA). I have worked for NYSERDA since September 13, 2001. In this role, I coordinate New York State's obligations under various statutes including the Radioactive Waste Management Act and coordinate state agency positions on atomic energy-related matters. I am also NYSERDA's State Liaison Officer delegate to the Nuclear Regulatory Commission.

2. NYSERDA is charged through the New York State Radioactive Waste Management Act to collect annual reports from all facilities in New York that gen-

erate, store for decay, store for later transfer, or dispose of low-level radioactive waste (LLRW). The associated 21 N.Y.C.R.R. part 502 regulations governing facility reporting to NYSED define low-level radioactive waste as waste that “consists of or contains Class A, B, or C radioactive waste” and require reporting of all radioactive waste generated or disposed during the reporting period and all waste held in storage at the end of the reporting period. Such reporting is required to include the volume, volume by class, and activity by radionuclide. For waste held in storage at the end of the reporting period because the generator knows or has reason to believe the waste will not be accepted at disposal facilities, the regulations impose the additional requirement to report “a description of the LLRW and the reason it is known or believed to be unacceptable for disposal at any of the licensed LLRW disposal facilities.”

3. Since 2001, I have been assigned to receive and review these annual reports.

4. NYSED has received annual reports from Entergy for Indian Point Energy Center Unit 2 and Unit 3 during this time period. NYSED has not received reports for Indian Point Unit 1 during this time.

5. In January 2020, I became aware of a New York State Department of Environmental Conservation (DEC) consent order dated September 5, 2001 regarding storage of mixed waste containing polychlorinated biphenyls (PCBs). Mixed waste is waste which contains both radioactive waste and hazardous waste components. Pursuant to 6 N.Y.C.R.R. § 371.4(e), materials containing 50 parts per mil-

lion (ppm) or greater of PCBs are regulated as hazardous waste under New York State law.

6. Storage of this waste at Indian Point has not been included in the Indian Point annual LLRW reporting described above.

7. In the course of a January 21, 2020 conversation with Entergy radioactive waste staff at Indian Point, I learned that the waste referenced in the 2001 DEC Consent Order is from Indian Point Unit 1; is currently stored in six containers, each one capable of holding a volume of up to 100 cubic feet; and that it originally contained up to 800 ppm of PCBs but was at some time in the past processed and now contains up to 400 ppm PCBs.

8. During the January 21 conversation Entergy personnel expressed their opinion that while this mixed waste was likely Class B or C radioactive waste when it was placed in storage about 20 years ago, due to radioactive decay the waste is now either Class A waste or on the border between Class A and Class B. The classes of LLRW—Class A, Class B, and Class C—are described in sections 61.55 and 61.56 of title 10 of the Code of Federal Regulations.

9. Entergy personnel stated that Entergy is trying to find a vendor to take the waste for treatment and disposal.

10. A commercial waste processing and disposal pathway does exist for this waste. If Class B, the waste could be sent to a processing facility for stabilization, then transferred to another facility for thermal desorption. If it is Class A, the waste could be sent directly for thermal desorption. Thermal desorption is a process

which can be used to separate the PCB component from the radioactive component, creating two separate waste streams which each have viable commercial disposal options.

11. In my opinion, whether or not this waste has a viable disposal pathway, its generation and storage should have been included in Entergy's annual filings pursuant to the Radioactive Waste Management Act and its eventual transfer for treatment and disposal should also be included in future filings. As such, I instructed Entergy radioactive waste staff to include this waste in the annual reporting due to NYSERDA this March 1, 2020 and each year thereafter, as per the requirements described above.

12. Through my nuclear coordination role, I am also aware of NYSERDA's ownership of a cooling water outfall and a small parcel of underwater land at the Indian Point site, and its lease to Consolidated Edison, with Entergy as successor, of the outfall structure. A copy of the lease is attached hereto as Exhibit A. It is currently in place, with an extended deadline of March 31, 2027. See Exhibit B (acknowledging Entergy as successor).

13. I, Alyse L. Peterson, have read the above declaration, consisting of four pages, and certify under penalty of perjury that the foregoing is true and correct. Executed this 10th day of February, 2020.


ALYSE L. PETERSON, P.E.

DECLARATION OF ALYSE L. PETERSON

LIST OF EXHIBITS

- Exhibit A Lease between the New York State Atomic and Space Development Authority and Consolidated Edison Company of New York, Inc. (July 1, 1971)
- Exhibit B Lease extension between New York State Energy Research and Development Authority, Successor to New York State Atomic and Space Development Authority, and Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC, successor to Consolidated Edison Company of New York, Inc. (August 1, 2016)

Exhibit A

Lease between the New York State Atomic and Space Development
Authority and Consolidated Edison Company of New York, Inc.
(July 1, 1971)

Completion date was defined such that initial term of
the Lease expired on April 1, 2006

(1)

— Land Copy —

[CONFORMED COPY]

Indian Point
(Outfall Area)

NEW YORK STATE ATOMIC AND
SPACE DEVELOPMENT AUTHORITY,

Lessor

AND

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.,

Lessee

Lease

Dated as of July 1, 1971

Energy Research & Development Authority

~~Empire State Electric Energy Research Corp.~~

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1. Leased Property; Initial Term of Lease	1
2. Renewal Terms	1
3. Basic Rent	2
4. Additional Rent	2
5. No Counterclaim, Abatement, etc.	2
6. Condition and Use of Property; Quiet Enjoyment	3
7. Maintenance and Repairs, Shoring, etc.	3
8. Additions and Other Improvements	3
9. Ownership of Additions	4
10. No Claims Against Authority, etc.	4
11. Indemnification by Company	4
12. Inspection, etc.	5
13. Payment of Impositions, etc.	5
14. Compliance with Legal and Insurance Requirements; Recording, etc.	6
15. Liens, etc.	6
16. Permitted Contests	6
17. Reports; Use of Models	7
18. Purchase or Abandonment	7
19. Insurance, Indemnity Agreement, etc.	8
20. Damage to or Destruction of Property	9
21. Taking of Property	11
22. Conditions of Termination and Conveyance	12
23. Purchase, Removal or Abandonment on Expiration	13
24. Right of Authority to Perform Company's Covenants, etc.	13
25. Assignments, etc., by Company	13
26. Assignment of Authority's Interest; Transfer of Property, etc.	13
27. Events of Default; Termination	14
28. Repossession, etc.	15
29. Reletting	15
30. Survival of Company's Obligations; Damages	16
31. Company's Waiver of Statutory Rights	17
32. Estoppel Certificates	17
33. No Waiver, etc., by Authority	17
34. Remedies, etc., Cumulative	17
35. Modification, Acceptance of Surrender, etc.	17
36. Definitions	17
37. Notices, etc.	20
38. Miscellaneous	20
Schedule A: Description of Outfall Structure	23
Schedule B: Description of Underwater Land	24

DESCRIPTION OF UNDERWATER LAND

All that certain piece, plot or parcel of land situate, lying and being in the Village of Buchanan, Town of Cortlandt, County of Westchester, State of New York, bounded and described as follows:

Beginning at the center point of Consolidated Edison Company of New York, Inc.'s Indian Point Generating Station No. 1 Containment Sphere and thence on a course North $51^{\circ} 43' 04''$ West a distance of 722.12 feet to a point in the Hudson River, and thence from said point on a course South $38^{\circ} 16' 56''$ West, 1,015.00 feet to a point on a sheet pile wall which point is further described as being at coordinates North 462362.364 and East 603569.490 on the United States Coast and Geodetic Survey Grid System, and which point is the point of beginning for the following described parcel:

Beginning at said point and thence running along a line of sheet piling South $38^{\circ} 16' 56''$ West, 256.98 feet to a point; thence along a line of sheet piling South $51^{\circ} 43' 04''$ East, 70.00 feet to a point; thence the following courses and distances: N $31^{\circ} 20' 39''$ E 88.35', N $42^{\circ} 44' 48''$ E 94.95', N $71^{\circ} 46' 19''$ E 39.42', N $34^{\circ} 54' 24''$ E 41.80', N $51^{\circ} 43' 04''$ W 86.00' to the point or place of beginning. *Containing 17,829.37 s.f. or 0.407 Acre*

The aforescribed parcel lies wholly within the limits of lands, now or formerly under the waters of the Hudson River, conveyed to the Consolidated Edison Company of New York, Inc. by the State of New York by Letters Patent dated October 27, 1959, recorded on December 14, 1959 in the Office of the Clerk of the County of Westchester (Division of Land Records) in Liber 5973 of Deeds, at Page 289.

*In Section 24
Block 38
Lot 1*

SCHEDULE A

DESCRIPTION OF OUTFALL STRUCTURE

The outfall structure for the release of cooling water from the Company's Indian Point Nuclear Generating Units Nos. 1, 2 and 3 at Buchanan, New York, constructed in accordance with the specifications set forth in the Company's Specification No. CE-PS-44-70, approved May 28, 1970, as amended by Addendum No. 1 thereto, approved June 25, 1970, together with the specifications as to the sheet piles deleted by such Addendum, as such specifications may from time to time be amended in accordance with the Facilities Construction Contract.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On the 26 day of July 1971 before me personally came JAMES G. CLINE to me known, who, being by me duly sworn, did depose and say that he resides at 38 Cara Drive, Nanuet, New York; that he is the CHAIRMAN OF NEW YORK STATE ATOMIC AND SPACE DEVELOPMENT AUTHORITY, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Authority; and that he signed his name thereto by like order.

STEVEN E. WEISS
Notary Public

STEVEN E. WEISS
NOTARY PUBLIC, State of New York
No. 31-9597440
Qualified in New York County
Commission Expires March 30, 1972

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On the 26 day of July 1971 before me personally came WALTER R. GRANT to me known, who, being by me duly sworn, did depose and say that he resides at 7 Orchard Drive, Greenwich, Connecticut; that he is an EXECUTIVE VICE PRESIDENT - FINANCE of CONSOLIDATED EDISON COMPANY OF NEW YORK, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

THOMAS LOVE
Notary Public

THOMAS LOVE
NOTARY PUBLIC, State of New York
No. 31-2409638
Qualified in New York County
Commission Expires March 30, 1973

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed as of the date hereof.

NEW YORK STATE ATOMIC AND SPACE DEVELOPMENT
AUTHORITY

Lessor

By JAMES G. CLINE
Chairman

[CORPORATE SEAL]

Attest:

MAURICE AXELRAD
Secretary

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

Lessee

By W. R. GRANT
*Executive Vice President —
Finance*

[CORPORATE SEAL]

Attest:

CHARLES W. WEXLER, JR.
Assistant Secretary

Project Cost: the sum of (a) the aggregate amount paid by the Authority for the Property pursuant to the Facilities Construction Contract, (b) the amount paid by the Authority for the purchase of the Underwater Land, and (c) \$20,000.

Property: as defined in section 1.

Purchase Date: the date specified for the purchase of the Property in the Company's notice of such purchase given pursuant to section 18.1.

Restoration: as defined in section 20.2.

Taking: with respect to any property, a taking during the term hereof of all or any part thereof, or any interest therein or right accruing thereto, as the result of or in lieu or in anticipation of the exercise of the right of condemnation or eminent domain, or a change of grade affecting the said property or any part thereof.

term: unless the context otherwise requires, the initial term of this Lease and any renewal term for which this Lease may have been extended pursuant to section 2.

Termination Date: the date specified for the termination of this Lease in the Company's notice of such termination given pursuant to section 18.2, 20.3 or 21.3, as the case may be.

Total Destruction: as defined in section 20.3.

Total Taking: as defined in section 21.3.

Unavoidable Delays: delays due to strikes, labor disputes, acts of God, governmental restrictions, enemy action, civil commotion, fire, unavoidable casualty or other causes beyond the control of the Company, but lack of funds shall not be deemed a cause beyond the control of the Company.

Underwater Land: the land described in Schedule B attached hereto upon which the outfall structure referred to in section 1 is to be constructed, all or substantially all of which land is under the waters of the Hudson River.

37. *Notices, etc.* All notices and other communications hereunder shall be in writing and shall be deemed to have been given when mailed by first class registered or certified mail, postage prepaid, addressed (a) if to the Company, at 4 Irving Place, New York, N. Y. 10003, marked for the attention of the Vice President and Treasurer, or at such other address as the Company shall have furnished in writing to the Authority and any assignee of the Authority's interest in this Lease, or (b) if to the Authority, at 230 Park Avenue, New York, N. Y. 10017, or at such other address as the Authority shall have furnished to the Company and any such assignee in writing, or (c) to any such assignee at such address as such assignee shall have furnished to the Company and the Authority in writing.

38. *Miscellaneous.* If any term of this Lease or any application thereof shall be invalid or unenforceable, the remainder of this Lease and any other application of such term shall not be affected thereby. Subject to section 35, this Lease may be changed, waived, discharged or terminated but only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought. Subject to sections 25 and 35, this Lease shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto, and, in particular, shall inure to the benefit of and be enforceable by any assignee of the Authority's interest in this Lease. This Lease shall be construed and enforced in accordance with and governed by the laws of the State of New York. The headings in this Lease are for purposes of reference only and shall not limit or otherwise affect the meaning hereof. This Lease may be executed in several counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

Default: any condition or event which constitutes or which, after notice or lapse of time or both, would constitute an Event of Default.

Discounted Value: as applied to any installment of Basic Rent as of any specified date, an amount equal to the then present worth of such installment determined by discounting such installment from the due date thereof to the date of determination at the rate of $7\frac{1}{2}\%$ per annum, computed on the basis of a 360-day year and 30-day month, convertible quarterly.

Events of Default: as defined in section 27.

Facilities Construction Contract: as defined in the preamble to this Lease.

Impositions: all taxes, assessments (including, without limitation, all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the term hereof), ground rents, water, sewer or other rents, rates and charges, excises, levies, license fees, permit fees, inspection fees and other authorization fees and other charges, in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen, of every character (including all interest and penalties thereon), which at any time during or in respect of the term hereof may be assessed, levied, confirmed or imposed on or in respect of or be a lien upon (a) the Property or the Underwater Land or any part thereof or the receipt of any rent therefrom or any estate, right or interest therein, or (b) any occupancy, use or possession of or activity conducted on or with respect to the Property or the Underwater Land or any part thereof, other than any income, revenue or excess profits or franchise taxes (or taxes imposed in lieu of or as a substitute or alternate for such taxes) of the Authority (and any assignee of the Authority's interest under this Lease or the mortgagee or trustee under any mortgage or deed of trust covering such interest or the Property or the Underwater Land) determined on the basis of general income, revenue or capital, or any interest or penalties in respect thereof.

Improvements: any repairs or additions to, or replacements, renewals or alterations of, the Property, or any part thereof, not constituting Additions.

Initial Appraisal: an appraisal of the value of the Property determined in accordance with the definition of Appraised Value in this section 36 by an Expert selected by the Company as provided therein.

Insurance Requirements: (a) all terms, provisions and requirements of any insurance policy referred to in section 19 or otherwise covering or applicable to the Property or any use or condition thereof, or any operations carried on by the Company with respect thereto, (b) all orders, rules, regulations and other requirements of the National Board of Fire Underwriters or of any other body now or hereafter established by an association or syndicate of insurance companies engaged in insuring against nuclear hazards and exercising functions in respect of such hazards similar to the functions exercised by such National Board of Fire Underwriters applicable to or affecting any Property or any use or condition thereof or any operations carried on by the Company with respect thereto, and (c) all terms, provisions and requirements of any indemnity agreement referred to in section 19.2.

Legal Requirements: all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary (a) which now or at any time hereafter may be applicable to the Property or Underwater Land or any part thereof or any use or condition of the Property or Underwater Land or any part thereof, or (b) which would be so applicable if the Authority were a private corporation and the Property and Underwater Land were privately owned unless and except to the extent the Authority notifies the Company that compliance with such Legal Requirement will not be required under the terms of this Lease.

Plants: as defined in section 1.

Additions: any improvement or addition to the Property or any part thereof which (a) entails an expenditure by the Company (without taking into account any overhead or administrative costs) in excess of \$25,000, and (b) is either physically identifiable as a separate part of the Property (as in the case of an extension thereof); or otherwise is of such a character that it would be reasonably feasible to appraise the Property as provided in the definition of Appraised Value without taking into account such improvement or addition, *provided* that no improvement or addition required to be made by the Company pursuant to section 7 shall be deemed to be an Addition.

Appraised Value: with reference to the Property, the full and fair value of the Property to the Company for its intended purpose, but not in excess of the replacement cost of the Property (including the cost of any engineering, ecological or other studies which may be required for purposes of such replacement, taking into account the information available from the studies originally made), after taking into account observed physical depreciation and obsolescence, all as determined by the following appraisal procedure: the Company will submit an appraisal (the "Initial Appraisal") of such value by an Expert selected by the Company. As used herein, an "Expert" shall mean an impartial person having at least 10 years' experience relating to the construction or valuation of utility facilities. The value of the Property set forth in the Initial Appraisal shall be the Appraised Value thereof unless the Authority rejects the Initial Appraisal by notice to the Company given within 90 days after receipt thereof accompanied by an appraisal of such value of the Property by an Expert selected by the Authority. The value of the Property set forth in such appraisal shall be the Appraised Value thereof unless the Company rejects such appraisal by notice to the Authority given within 10 days thereafter. If the Company shall so reject such appraisal, the Experts so selected or, if they fail to agree upon a decision, an Expert selected by them (or, if they fail to agree upon such selection, an Expert appointed by the President of the Real Estate Board of New York, Inc. or the person then exercising similar functions) shall be instructed to proceed with all reasonable dispatch (in any event within 90 days after appointment) to appraise such value of the Property, and the value thereby determined shall be the Appraised Value of the Property. All fees and expenses, if any, of any and all Experts required by the appraisal procedure hereinabove set forth shall be borne by the Company.

Authority: New York State Atomic and Space Development Authority, a New York public benefit corporation, or any successor or successors to its interests as lessor hereunder.

Basic Rent: as defined in section 3.

Certificate: a certificate delivered on behalf of the Company, signed by its Chairman, President, any Vice President, Treasurer, Secretary, any Assistant Treasurer or any Assistant Secretary, wherein the person signing the same shall (a) specify the section of this Lease pursuant to which, or to furnish evidence of compliance with which, such certificate is furnished, (b) state briefly the nature and scope of the examination or investigation upon which the statements contained in the certificate are based, (c) state that is the opinion of such person that he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such section has been complied with, (d) state whether or not it is the opinion of such person that such section has been complied with, and (e) certify to the correctness of the statements contained therein.

Company: Consolidated Edison Company of New York, Inc., a New York corporation, or any successor or successors to its rights and obligations as lessee hereunder.

Company Mortgages: the Mortgage Trust Indenture between the Company and the National City Bank of New York (now First National City Bank), Trustee, dated as of April 1, 1946, as from time to time supplemented and amended, and the Mortgage Trust Indenture between Westchester Lighting Company and City Bank Farmers Trust Company, as Trustee, dated as of July 1, 1937, as from time to time supplemented and amended.

Completion Date: the date payment for the Property is made by the Authority under section 6 of the Facilities Construction Contract.

This property is not subject to Westchester Loan

and the respective rights and obligations of the Authority and the Company with respect to the removal or abandonment of any Property shall be as set forth in section 18.3.

31. **Company's Waiver of Statutory Rights.** In the event of any termination of this Lease pursuant to section 27 or any repossession or removal of the Property pursuant to section 28, the Company, so far as permitted by law, waives (a) any notice of re-entry or of the institution of legal proceedings to that end, (b) any right of redemption, re-entry or repossession, (c) any right to a trial by jury in any proceeding or any matter in any way connected with this Lease, and (d) the benefits of any laws now or hereafter in force exempting property from liability for rent or for debt.

32. **Estoppel Certificates.** The Company will execute, acknowledge and deliver to the Authority, promptly upon request, its Certificate certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which the Basic Rent and Additional Rent have been paid, (c) whether there are then existing any offsets or defenses against the enforcement of any term hereof on the part of the Company to be performed or complied with (and, if so, specifying the same), and (d) that no notice has been given to the Company of any default which has not been cured. Any such Certificate may be relied upon by any assignee of the Authority's interest in this Lease and by any prospective purchaser, mortgagee or trustee under a deed of trust of the Property or any part thereof.

33. **No Waiver, etc., by Authority.** No failure by the Authority or by any assignee of the Authority's interest in this Lease to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any such term. No waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect, or the rights of the Authority or any such assignee with respect to any other then existing or subsequent breach. No foreclosure, sale or other proceedings under any mortgage or any deed of trust of the Property subject to this Lease shall discharge or otherwise affect the obligations of the Company hereunder.

34. **Remedies, etc., Cumulative.** Each right, power and remedy of the Authority provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Authority of any one or more of the rights, powers or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the Authority of any or all such other rights, powers or remedies.

35. **Modification, Acceptance of Surrender, etc.** No modification, termination or surrender to the Authority of this Lease and no surrender of the Property or any part thereof or of any interest therein by the Company shall be valid or effective unless agreed to and accepted in writing by the Authority and any assignee of the Authority's interest in this Lease of which the Company shall have received notice pursuant to subdivision (a) of section 26, and no act by any representative or agent of the Authority or any such assignee, and no act by the Authority, or any such assignee, other than such a written agreement and acceptance by the Authority and any such assignee, shall constitute an agreement thereto or acceptance thereof.

36. **Definitions.** As used in this Lease, the following terms have the following respective meanings:

Additional Rent: as defined in section 4.

Authority shall not be responsible or liable for any failure to relet the Property or any part thereof or for any failure to collect any rent due upon any such reletting.

30. *Survival of Company's Obligations; Damages.* 30.1. *Termination of Lease Not to Relieve Company of Obligations.* No expiration or termination of the term of this Lease pursuant to section 27 or by operation of law or otherwise (except as expressly provided herein), and no repossession or removal of the Property or any part thereof pursuant to section 28 or otherwise, shall relieve the Company of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, repossession or removal.

30.2. *Current Damages.* In the event of any such expiration, termination, removal or repossession, the Company will pay to the Authority the Basic Rent and all Additional Rent and other sums required to be paid by the Company up to the time of such expiration, termination, removal or repossession, and thereafter the Company, until the end of what would have been the term of this Lease in the absence of such expiration, termination, removal or repossession, and whether or not the Property or any part thereof shall have been relet, shall be liable to the Authority for, and shall pay to the Authority, as liquidated and agreed current damages for the Company's default (a) the Basic Rent and all Additional Rent and other sums which would be payable under this Lease by the Company in the absence of such expiration, termination, removal or repossession, plus (b) all reasonable expenses of the Authority and of any assignee of the Authority's interest in this Lease in connection with such termination, repossession and removal and any reletting effected for the account of the Company pursuant to section 29 (including, without limitation, all reasonable costs of repossession, removal and transportation, brokerage commissions, legal expenses, attorneys' fees, employees' expenses and costs and expenses of preparing for such reletting), less (c) the proceeds, if any, of such reletting. The Company will pay such current damages quarter-annually on the days on which the Basic Rent would have been payable under this Lease in the absence of such expiration, termination, removal or repossession, and the Authority shall be entitled to recover the same from the Company on each such day.

30.3. *Final Damages.* At any time after such expiration, termination, removal or repossession, whether or not the Authority shall have collected any current damages as aforesaid, the Authority shall be entitled to recover from the Company and the Company will pay to the Authority on demand, as and for liquidated and agreed final damages for the Company's default and in lieu of all current damages beyond the date of such demand, an amount equal to the greater of

(a) the Discounted Value of all payments of Basic Rent which would be payable under this Lease from the date of such demand (or, if it be earlier, the date to which the Company shall have satisfied in full its obligation under section 30.2 to pay current damages) for what would be the then unexpired term of this Lease in the absence of such expiration, termination, removal or repossession (the sum of all such payments of Basic Rent are referred to in this section 30.3 as "Future Rentals"), or

(b) the excess, if any, of (i) the Future Rentals over (ii) the then fair net rental value of the Property for such period subsequent to the date of such demand.

If any statute or rule of law shall validly limit the amount of such liquidated final damages to less than the amount above agreed upon, the Authority shall be entitled to the maximum amount allowable under such statute or rule of law.

30.4. *Removal or Abandonment.* Together with any demand for the payment of final damages made pursuant to section 30.3, the Authority shall notify the Company of whether, upon payment of such damages, the Authority elects to remove or abandon in place all or any part of the Property not theretofore removed or repossessed, all in accordance with the procedures set forth in section 18.3,

bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future bankruptcy or other statute, law or regulation, or shall file an answer admitting or not contesting the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Company or any material part of its properties; or

(e) if, within 30 days after the commencement of any proceeding against the Company seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future bankruptcy or other statute, law or regulation, such proceeding shall not have been dismissed or stayed (or if, within 30 days after the expiration of any such stay, such proceeding shall not have been dismissed), or if, within 30 days after the appointment without the consent or acquiescence of the Company of any trustee, receiver or liquidator of the Company or of any material part of its properties, such appointment shall not have been vacated or stayed (or if, within 30 days after the expiration of any such stay, such appointment shall not have been vacated); or

(f) if the Company shall default in the payment of any indebtedness for borrowed money beyond any grace period provided with respect thereto, and such default shall not have been waived or cured;

then and in any such event (regardless of the pendency of any proceeding which has or might have the effect of preventing the Company from complying with the terms of this Lease), the Authority may at any time thereafter, during the continuance of such default, give a termination notice to the Company specifying a date (not less than 20 days from the date of giving such notice) on which this Lease shall terminate, and on such date, subject to section 30 relating to the survival of the Company's obligations, the term of this Lease shall expire and terminate by limitation and all rights of the Company under this Lease shall cease, unless before such date (i) all arrears of Basic Rent and Additional Rent and all other sums payable by the Company under this Lease, together with interest thereon at the rate of $8\frac{1}{2}\%$ per annum, and all reasonable costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by or on behalf of the Authority or any assignee of the Authority's interest in this Lease (if and to the extent such costs and expenses shall be set forth in a demand by the Authority or such assignee, as the case may be) shall have been paid by the Company, and (ii) all other Defaults at the time existing under this Lease shall have been fully remedied to the satisfaction of the Authority. All reasonable costs and expenses incurred by or on behalf of the Authority or any such assignee (including, without limitation, attorneys' fees and expenses) occasioned by any Default by the Company under this Lease shall constitute Additional Rent hereunder.

28. Repossession, etc. If an Event of Default shall have occurred and be continuing, the Authority, whether or not the term of this Lease shall have been terminated pursuant to section 27, may, to the extent permitted by law, enter upon the Company's property and repossess and remove the Property or any part thereof by force, summary proceedings, ejectment or otherwise. The Authority shall be under no liability for or by reason of any such entry, repossession or removal.

29. Reletting. At any time or from time to time after the repossession of the Property or any part thereof pursuant to section 28, whether or not the term of this Lease shall have been terminated pursuant to section 27, the Authority may (but shall be under no obligation to) relet the Property or any part thereof for the account of the Company, in the name of the Company or the Authority or otherwise, without notice to the Company, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term of this Lease) and on such conditions (which may include concessions or free rent) and for such uses as the Authority, in its uncontrolled discretion, may determine, and may collect and receive the rents therefor. The

affect or limit any rights of the assignee, (iii) no assignment shall release the Authority from any of its obligations under this Lease or constitute an assumption of any such obligations on the part of the assignee, (iv) no Basic Rent may be prepaid prior to the due date thereof without the prior written consent of the assignee, (v) no amendment or modification of this Lease and no waiver or consent hereunder shall be valid unless joined in writing by the assignee, and (vi) all notices, demands, consents, requests, approvals and other instruments given by the Company hereunder shall also be delivered to the assignee. Any such assignment shall be effective with respect to the rights and obligations of the Company only from and after the time the Company shall have received written notice thereof from the Authority. All the rights and interests of the assignee herein shall be terminated upon the termination of such assignment in the manner specified in the instrument effecting such assignment.

(b) The Authority may subject the Property or the Underwater Land or both to a mortgage or deed of trust, subject to and subsequent to this Lease, *provided* that the creation of such mortgage or deed of trust shall not result in the imposition of any taxes on the Property or the Underwater Land to which the Property or the Underwater Land, as the case may be, would not otherwise be subject if such taxes are required to be paid, directly or indirectly, by the Company. In the event the holder of any mortgage or the trustee under any deed of trust becomes the owner of the title to the Property or in the event of the sale of the Property as a result of any action or proceeding to foreclose any such mortgage or deed of trust, this Lease shall continue in full force and effect as a direct lease between the Company and the then owner of the title to the Property, upon all of the terms, covenants and conditions of this Lease.

(c) The Authority may at any time convey or otherwise dispose of the Property or the Underwater Land or both to the State of New York or the United States of America or any agency, authority or instrumentality of either thereof and, in such case, the Authority will give prior notice of such disposition to the Company and will furnish the Company with an instrument, reasonably satisfactory to the Company, by which such transferee shall have assumed all of the obligations of the Authority under this Lease with respect to the Property, the Underwater Land or both, as the case may be. Upon the delivery of such instrument to the Company such transferee shall be substituted as the Authority hereunder with the same force and effect as the Authority and the Authority shall thereupon be released from all obligations, duties and liabilities under this Lease with respect to the Property, the Underwater Land or both, as the case may be.

(d) Except as permitted by subdivision (c) of this section 26, and except for a transfer of title as a result of any foreclosure or sale of the Property or the Underwater Land or both pursuant to subdivision (b) of this section 26, the Authority will not during the term of this Lease convey or otherwise dispose of the Property or the Underwater Land to any other person, firm, corporation or other entity, whether governmental or otherwise, without the prior written consent of the Company.

27. **Events of Default; Termination.** If any one or more of the following events ("Events of Default") shall occur:

(a) if the Company shall fail to pay any Basic Rent, Additional Rent or other sum payable hereunder when and as the same becomes due and payable; or

(b) if the Company shall fail to perform or comply with any term of section 13, 14 or 15 and such failure shall continue for more than 30 days after the Company receives written notice thereof (regardless of the source of such notice) or obtains knowledge of such failure; or

(c) if the Company shall fail to perform or comply with any other term hereof and such failure shall continue for more than 30 days after the Company receives written notice thereof (regardless of the source of such notice); or

(d) if the Company shall make a general assignment for the benefit for creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in

(b) *Underwater Land.* The Authority has purchased the Underwater Land from the Company solely in order to preserve and protect the Authority's title to the Property. Accordingly, upon expiration of this Lease at the end of the Initial Term or any renewal term or upon termination of this Lease pursuant to section 18, 20.3 or 21.3, the Authority, without payment by the Company of any amounts in addition to the amounts payable at the time of such expiration or termination, as the case may be, will reconvey the Underwater Land to the Company by quitclaim deed with covenants against liens or encumbrances created by the Authority, *provided* that the Authority may defer such reconveyance until such time as the Authority has removed all or any part of the Property which the Authority has elected to remove pursuant to section 18.3 or 23.

23. *Purchase, Removal or Abandonment on Expiration.* (a) Not less than 6 months prior to the expiration of the term of this Lease (including any renewal term or terms for which this Lease has been extended), the Company will furnish to the Authority a Certificate specifying whether, upon such expiration, the Company will purchase the Property in accordance with section 18.1 and, if the Company elects not to purchase the Property, an undertaking by the Company, in form reasonably satisfactory to the Authority, to the effect that the Company will not use any of the Property after such expiration for any purposes of the general character referred to in section 1. Unless the Company so elects not to purchase the Property, it will, not less than 6 months prior to the expiration of the term of this Lease, exercise its election to purchase the Property pursuant to and in accordance with the procedures set forth in section 18.1.

(b) If the Company so elects not to purchase the Property pursuant to this section 23, then at or prior to the expiration of the term of this Lease the Authority will give notice to the Company of whether the Authority elects to remove or abandon in place all or any part of the Property upon the termination of this Lease in accordance with the procedures set forth in section 18.3, and the respective rights and obligations of the Authority and the Company with respect to the removal or abandonment of any Property upon such expiration shall be as set forth in such section 18.3.

24. *Right of Authority to Perform Company's Covenants, etc.* If the Company shall fail to make any payment or perform any act required to be made or performed by it hereunder, the Authority, without notice to or demand upon the Company and without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of the Company, and may enter upon the property of the Company or any part thereof for such purpose and take all such action with respect to the Property as, in the Authority's opinion, may be necessary or appropriate therefor. No such entry shall be deemed an eviction of the Company. All payments so made by the Authority and all reasonable costs and expenses (including, without limitation, attorneys' fees and expenses) incurred in connection therewith or in connection with the performance by the Authority of any such act shall constitute Additional Rent hereunder.

25. *Assignments, etc., by Company.* Without the prior written consent of the Authority, the interest of the Company in this Lease may not be assigned or otherwise transferred by the Company, and neither the Property nor any part thereof may be sublet, *provided* that the Company may assign its interest in this Lease, or transfer such interest by operation of law, to any corporation with which or into which the Company shall merge or consolidate or to which the Company shall transfer all or substantially all of its assets.

26. *Assignment of Authority's Interest; Transfer of Property, etc.* (a) The Authority may at any time and from time to time assign, by way of pledge or otherwise, any or all of the rights, in whole or in part, of the Authority under this Lease. From and after any such assignment, provided that the Company shall have received the notice required by this subdivision (a), (i) the assignee may enforce any and all of the terms of this Lease, to the extent so assigned, as though the assignee had been a party hereto, (ii) no action or failure to act on the part of the Authority shall adversely

- the amount payable under this subdivision (c) shall be limited to the excess, if any, of the awards or payments received by or payable to the Authority or to any mortgagee or trustee of the Property or the Authority's interest in this Lease on account of such Total Taking over the amount referred to in subdivision (b) of this section 21.3.

Upon the receipt of such payment by the Authority this Lease shall terminate and title to the Property shall vest in the Company. The Authority, at the expense of the Company, will execute all such documents as the Company may reasonably request to confirm such vesting of title. If such Appraised Value of the Property shall not have been determined on or before the Termination Date, the Company, on a date 10 days after the final determination of such Appraised Value, will pay to the Authority the additional amount, if any, which would have been paid to the Authority pursuant to subdivision (c) above if such Appraised Value had been determined on or before the Termination Date. Any Taking of the Property of the character referred to above in this section 21.3 as to which notice of termination is given is herein called a "Total Taking."

21.4. *Application of Awards, etc.* All awards and payments received by or payable to the Authority on account of a Taking of all or any part of the Property (less the reasonable costs, fees and expenses incurred in the collection thereof and not previously paid by the Company pursuant to section 21.1, for which costs, fees and expenses the Authority shall be reimbursed from such award or payment) shall be applied or dealt with by the Authority as follows:

(a) All such awards and payments actually received on account of a Taking (including a Taking for temporary use) other than a Total Taking shall be applied as follows:

(i) Subject to subparagraph (ii) below, such awards and payments shall be applied to pay the cost of Restoration of the portion of the Property remaining after such Taking, such application to be effected substantially in the same manner and subject to the same conditions as provided in section 20.4 with respect to insurance proceeds, except that, in case the total amount of such awards and payments shall not exceed \$100,000, such awards and payments shall be paid over to the Company, if not in Default hereunder, forthwith upon written request therefor and without compliance with any of such conditions.

(ii) In case of a Taking of the Property for temporary use, such awards and payments shall be held and applied to the payment of Basic Rent and Additional Rent becoming due hereunder for the period of temporary use, *provided* that, if any portion of such awards and payments is made by reason of any damage to or destruction of the Property during such Taking for temporary use, such portion shall be held and applied as provided in subparagraph (i) above after such Taking is terminated.

(iii) The balance, if any, of such awards and payments not required to be held or applied in accordance with the foregoing subparagraphs (i) and (ii) shall, unless the Company is in Default hereunder, be paid over or assigned to the Company or as it may direct.

(b) All such awards and payments received or payable on account of a Total Taking shall be paid over or assigned to the Company or as it may direct upon termination of this Lease and receipt by the Authority of payment of the full amount due to it in accordance with section 21.3.

22. *Conditions of Termination and Conveyance.* (a) *Property.* Notwithstanding any other term hereof, this Lease shall not terminate pursuant to section 18, 20.3 or 21.3 until the Company shall have discharged, or made provision satisfactory to the Authority for the discharge of, all liabilities and obligations of the Company accruing up to the time of such termination (other than the obligation of the Company to pay the excess, if any, of the Appraised Value of the Property over the payment made by the Company at the Termination Date pursuant to section 20.3 or 21.3). Any conveyance of the Property by the Authority pursuant to section 18, 20.3 or 21.3 shall be by deed or bill of sale with covenants against liens or encumbrances created by the Authority.

of such cost and that the amount required to complete Restoration is not in excess of the balance of such proceeds. Upon receipt by the Authority or such mortgagee or trustee, as the case may be, of evidence reasonably satisfactory to it that Restoration has been completed and the cost thereof paid in full and that there are no mechanic's or similar liens for labor or materials supplied in connection therewith, the balance, if any, of such proceeds, unless the Company is in Default hereunder, shall be paid over or assigned to the Company or as it may direct.

(b) All such proceeds received or payable on account of a Total Destruction shall be paid over or assigned to the Company or as it may direct upon termination of this Lease and receipt by the Authority of payment of the full amount due to it in accordance with section 20.3.

21. Taking of Property. 21.1. *Company to Give Notice; Assignment of Awards, etc.* In case of a Taking of all or any part of the Property, or the commencement of any proceedings or negotiations which might result in any such Taking, the Company promptly will give notice thereof to the Authority, generally describing the nature and extent of such Taking or the nature of such proceedings or negotiations and the nature and extent of the Taking which might result therefrom, as the case may be. The Company hereby irrevocably assigns, transfers and sets over to the Authority all rights of the Company to any award or payment on account of any such Taking and irrevocably authorizes and empowers the Authority, in the name of the Company or otherwise, to file and prosecute what would otherwise be the Company's claim for any such award or payment and to collect, receipt for and retain the same. The Company will pay all reasonable costs, fees and expenses incurred by the Authority in connection with any such Taking and seeking and obtaining any award or payment on account thereof.

21.2. *Partial Taking.* In case of a Taking of the Property other than a Total Taking, (a) this Lease shall remain in effect as to the portion of the Property remaining immediately after such Taking, without any abatement or reduction of Basic Rent, Additional Rent or any other sum payable hereunder, and (b) the Company, whether or not the awards or payments, if any, on account of such Taking shall be sufficient for the purpose, at its expense promptly will commence and complete (subject to Unavoidable Delays) Restoration of the Property, *provided* that in case of a Taking for temporary use the Company shall not be required to effect Restoration until such Taking is terminated.

21.3. *Total Taking.* In case of (x) the Taking (other than for temporary use) of the Plants, or (y) the Taking (other than for temporary use) of such a substantial part of the Property that, in the good faith judgment of the Board of Directors of the Company, either the portion of such Property remaining after such Taking is (and after Restoration would be) unsuitable for use by the Company in the operation of its business or Restoration of such portion of the Property is not economically feasible, then, in any such case, the Company within 120 days after the date of such Taking will give notice to the Authority of the termination of this Lease on the next Rent Payment Date occurring not less than 45 days after the date of such notice (the "Termination Date"), such notice to be accompanied by an Initial Appraisal of the Property as at the date immediately prior to such Taking. On the Termination Date the Company will pay to the Authority an amount equal to the sum of

(a) all Basic Rent and Additional Rent required to be paid by the Company to the Authority to and including the Termination Date;

(b) the Discounted Value of all payments of Basic Rent due to and including the expiration date of the term of this Lease (including any renewal term or terms for which this Lease has been extended); and

(c) the excess, if any, of the Appraised Value of the Property as at the date immediately prior to such Taking (or, if such Appraised Value of the Property shall not have been determined on or before the Termination Date, then such value of the Property as set forth in the Initial Appraisal) over the amount referred to in subdivision (b) of this section 21.3, *provided* that

and complete (subject to Unavoidable Delays) the restoration, replacement or rebuilding of the Property as nearly as possible to its value, condition and character immediately prior to such damage or destruction, with such Additions and Improvements as may be made, at the Company's election, pursuant to and subject to the conditions of section 8 (such restoration, replacement, rebuilding, Additions and Improvements, together with any temporary repairs and property protection pending completion of the work, being herein called "Restoration").

20.3. *Total Destruction.* In case of the destruction of such a substantial part of the Property that, in the good faith judgment of the Board of Directors of the Company, Restoration of the Property is not economically feasible, then, in any such case, the Company within 120 days after the date of such destruction will give notice to the Authority of the termination of this Lease on the next Rent Payment Date occurring not less than 45 days after the date of such notice (the "Termination Date"), such notice to be accompanied by an Initial Appraisal of the Property as at the date immediately prior to such destruction. On the Termination Date the Company will pay to the Authority an amount equal to the sum of

(a) all Basic Rent and Additional Rent required to be paid by the Company to the Authority to and including the Termination Date;

(b) the Discounted Value of all payments of Basic Rent due to and including the expiration date of the term of this Lease (including any renewal term or terms for which this Lease has been extended); and

(c) the excess, if any, of the Appraised Value of the Property as at the date immediately prior to such destruction (or, if such Appraised Value of the Property shall not have been determined on or before the Termination Date, then such value of the Property as set forth in the Initial Appraisal) over the amount referred to in subdivision (b) of this section 20.3, *provided* that the amount payable under this subdivision (c) shall be limited to the excess, if any, of the insurance proceeds received by or payable to the Authority or to any mortgagee or trustee of the Property or the Authority's interest in this Lease on account of such Total Destruction over the amount referred to in subdivision (b) of this section 20.3.

Upon the receipt of such payment by the Authority this Lease shall terminate and title to the Property shall vest in the Company. The Authority, at the expense of the Company, will execute all such documents as the Company may reasonably request to confirm such vesting of title. If such Appraised Value of the Property shall not have been determined on or before the Termination Date, the Company, on a date 10 days after the final determination of such Appraised Value, will pay to the Authority the additional amount, if any, which would have been paid to the Authority pursuant to subdivision (c) above if such Appraised Value had been determined on or before the Termination Date. Any destruction of the Property of the character referred to above in this section 20.3 as to which notice of termination is given is herein called a "Total Destruction."

20.4. *Application of Insurance Proceeds.* All insurance proceeds received by or payable to the Authority or to any mortgagee or trustee of the Property or the Authority's interest in this Lease on account of any damage to or destruction of the Property or any part thereof (less the actual costs, fees and expenses incurred in the collection thereof, for which the person incurring the same shall be reimbursed from such proceeds) shall be applied or dealt with by the Authority or such mortgagee or trustee, as the case may be, as follows:

(a) All such proceeds actually received on account of any such damage or destruction other than a Total Destruction, unless the Company is in Default hereunder, shall be paid over to the Company or as it may direct from time to time as Restoration progresses to pay (or reimburse the Company for) the cost of Restoration, but only upon the written request of the Company accompanied by evidence satisfactory to the Authority or such mortgagee or trustee, as the case may be, that the sum requested has been paid or is then due and payable and is a proper item

from the radioactive, toxic, explosive or other hazardous properties of radioactive materials on or in the Property or at the Plants.

Any insurance required by this section 19.1 which is not automatically provided under existing insurance policies maintained by the Company may be provided by the Company either by endorsements to such existing policies or by additional insurance policies.

19.2. *Indemnity Agreement.* During the term of this Lease, so long as the Company's indemnity agreement with the Atomic Energy Commission relating to the Plants, entered into pursuant to section 170(c) of the Atomic Energy Act of 1954, as amended, (including any modification, renewal, replacement or extension), or any other similar indemnity agreement relating to the Plants entered into from time to time by the Company with the Federal government shall be in effect, the Company will use its best efforts to assure that the coverage of any such agreement extends to the Property as well as to the Plants.

19.3. *Policy Provisions.* All insurance with respect to the Property maintained by the Company pursuant to section 19.1 shall provide that no cancellation, reduction in amount or material change in the coverage thereof with respect to the Property shall be effective until at least 10 days after receipt of notice thereof by the Authority and, so long as the Property or the Authority's interest in this Lease shall be subject to any mortgage or deed of trust, by the mortgagee or the trustee, as the case may be, thereunder, and, in the case of the property insurance maintained with respect to the Property, shall (a) be endorsed, to the extent such endorsement is obtainable, to name the Authority and the Company and, so long as the Property or the Authority's interest in this Lease shall be subject to any mortgage or deed of trust, the mortgagee or the trustee, as the case may be, thereunder, as insureds as their respective interests may appear, and (b) provide that all insurance proceeds for losses resulting from damage to or destruction of the Property shall be payable to and adjusted by the Authority or, so long as the Property or the Authority's interest in this Lease shall be subject to any mortgage or deed of trust, the mortgagee or the trustee, as the case may be, thereunder.

19.4. *Certificates of Insurance, etc.* (a) The Company will deliver to the Authority, upon request, certificates of insurance evidencing the insurance required by this section 19 and bearing notations evidencing the payment of the premiums thereon or accompanied by other evidence of such payment satisfactory to the Authority. Not less than 30 days prior to the expiration of any policy theretofore certified or maintained pursuant to this section 19, the Company will deliver to the Authority certificates of insurance evidencing the renewal of such policies. The Company will promptly pay all premiums when due on any policies required by this section 19 to be maintained by it.

(b) The Company, at the request of the Authority, will provide to the Authority a copy of the indemnity agreement referred to in section 19.2 in the form in which it was originally executed and a copy of all endorsements or amendments thereto relating to or affecting the Property.

(c) The Company, at the request from time to time of the Authority, will provide to the Authority a Certificate setting forth the particulars as to all insurance policies and indemnity agreements maintained in effect by the Company pursuant to this section 19, and certifying that the same comply with the requirements of this section 19 and that all premiums then due thereon have been paid.

20. *Damage to or Destruction of Property.* 20.1. *Company to Give Notice.* In case of any material damage to or destruction of the Property or any part thereof, the Company promptly will give notice thereof to the Authority, generally describing the nature and extent of such damage or destruction and setting forth the Company's best estimate of the cost of Restoration.

20.2. *Restoration.* In case of any damage to or destruction of the Property or any part thereof other than a Total Destruction, the Company, whether or not the insurance proceeds, if any, on account of such damage or destruction shall be sufficient for the purpose, at its expense will promptly commence

Upon the receipt of such payment by the Authority, this Lease shall terminate and title to the Property shall vest in the Company. The Authority, at the expense of the Company, will execute all such documents as the Company may reasonably request to confirm such vesting of title. If the Appraised Value of the Property shall not have been determined on or before the Purchase Date, the Company, on a date 10 days after the final determination of such Appraised Value, will pay to the Authority the excess, if any, of such Appraised Value over the amount paid pursuant to subdivision (b) above.

18.2. *Abandonment by the Company.* At any time during the term of this Lease, the Company may elect to abandon the Property by delivering to the Authority (a) a Certificate to the effect that the Board of Directors of the Company has determined by resolution that the Property, because of obsolescence, change of conditions or otherwise, is no longer required to accomplish the purposes for which it was originally intended or that abandonment of the Property is required by a Legal Requirement (setting forth in reasonable detail the nature thereof), (b) an undertaking by the Company, in form reasonably satisfactory to the Authority, to the effect that the Company will not thereafter use any of the Property for any purposes of the general character referred to in section 1, and (c) a designation of the date, which shall be the next Rent Payment Date occurring not less than 45 days after the delivery of such Certificate, on which this Lease shall terminate (the "Termination Date"). On the Termination Date, the Company will pay to the Authority an amount equal to the sum of

- (i) all Basic Rent and Additional Rent required to be paid by the Company to the Authority to and including the Termination Date; and
- (ii) the Discounted Value of all payments of Basic Rent due to and including the expiration date of the term of this Lease (including any renewal term or terms for which this Lease has been extended).

Upon the receipt of such payment by the Authority, this Lease shall terminate.

18.3. *Abandonment or Removal by the Authority.* At or prior to the Termination Date specified in any Certificate delivered by the Company to the Authority pursuant to section 18.2, the Authority will give notice to the Company of whether the Authority elects to remove or abandon in place, upon the termination of this Lease, all or any part of the Property and, in the case of any portion of the Property to be removed, describing such portion in adequate detail to permit identification thereof. If the Authority shall elect to remove any Property, the Company, promptly after the termination of this Lease, at its option, either will make such Property available to the Authority at the entrance to the Plants or will permit representatives of the Authority to enter upon the property of the Company, on a schedule consistent with the continued operation of the Plants, for the purpose of removing such Property. If the Authority shall elect to abandon any Property, then upon receipt by the Authority of the payment referred to in section 18.2, title to such Property, subject to the Permitted Exceptions, shall vest in the Company, and the Authority, at the expense of the Company, will execute all such documents as the Company may reasonably request to confirm such vesting of title.

19. Insurance, Indemnity Agreement, etc. 19.1. *Risks to be Insured.* The Company, at its expense, will obtain and maintain in effect during the term of this Lease the following insurance with respect to the Property, at the same levels and on the same terms and conditions (including exceptions and deductibles) as the insurance carried by the Company with respect to the Plants in connection with which the Property is used:

- (a) property insurance against risks of the type covered by "nuclear all risk" policies and against all other risks as are covered with respect to such Plants;
- (b) general public liability and property damage insurance; and
- (c) public liability insurance against claims for personal injury, sickness, disease or death or for loss of or damage to property, or for loss of the use of property, arising out of or resulting

17. Reports; Use of Models. 17.1. *Financial.* During the term of this Lease the Company will deliver to the Authority:

(a) as soon as available, and in any event within 120 days after the end of each fiscal year of the Company, a balance sheet of the Company as of the end of such fiscal year and the related statements of income and retained earnings for such fiscal year, certified by independent public accountants of nationally recognized standing selected by the Company, all in reasonable detail and setting forth in comparative form the corresponding figures for the preceding fiscal year;

(b) as soon as available, and in any event within 60 days after the end of each of the first three fiscal quarters during any fiscal year of the Company, a statement of income for the 12 months ended with the end of such fiscal quarter, all in reasonable detail and setting forth in comparative form the corresponding figures for the comparable period one year prior thereto;

(c) all reports sent by the Company to its stockholders and all reports filed by the Company with any governmental authority relating to the possession or use of the Property, except to the extent that distribution of such reports may be restricted by a Legal Requirement; and

(d) such other financial information relating to the affairs of the Company as the Authority may reasonably request.

17.2. *Property.* The Company will deliver to the Authority (a) copies of studies or reports prepared by or for the Company relating to the design, construction or operation of the Property or any Addition, including all data relating to the Property and its operation furnished to any Federal, State or local regulatory authority in connection with the issuance by such authority of construction or operating licenses or permits for the Property or any Addition, and (b) the results of model studies performed at Alden Research Laboratory, the results of mathematical predictions of heat dispersal prepared by consultants to the Company and copies of operational reports required to be submitted to regulatory authorities in connection with the Company's permits to discharge heated water.

17.3. *Use of Models.* The Company will extend to the Authority any and all rights it may have to the use of the models constructed in connection with the engineering and ecological studies conducted with respect to the Property, including the models constructed at Alden Research Laboratory.

17.4. *No Default, etc.* The Company will deliver to the Authority promptly upon request (a) its Certificate stating that no default exists hereunder, or, if any such default exists, specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto, and (b) such information with respect to the condition or use of the Property or the Underwater Land or any part thereof as from time to time may reasonably be requested.

18. Purchase or Abandonment. 18.1. *Purchase by the Company.* The Company may, at its election, purchase the Property at the expiration of the initial term or any renewal term of this Lease or on any Rent Payment Date during any such renewal term (such expiration date or Rent Payment Date being herein called the "Purchase Date"), by delivering to the Authority notice of such election not less than 6 months prior to the Purchase Date specified in such notice, *provided* that not less than 15 months prior to such Purchase Date the Company shall have submitted to the Authority an Initial Appraisal of the Property as at a date not more than 16 months prior to such prospective Purchase Date. On the Purchase Date the Company will pay to the Authority the sum of:

(a) all Basic Rent and Additional Rent required to be paid by the Company to the Authority to and including the Purchase Date; and

(b) an amount equal to the Appraised Value of the Property, as at a date not more than 16 months prior to such Purchase Date, determined on the basis of the value of the Property free of this Lease, *provided* that if such Appraised Value shall not have been determined on or before the Purchase Date, such amount shall be equal to the value set forth in the Initial Appraisal.

pany in any proceeding or application with respect to taxes or other Impositions payable by or contested by the Company hereunder; *provided* that the Authority shall not be obligated to incur in connection therewith any expense which is not reimbursed by the Company.

14. Compliance with Legal and Insurance Requirements; Recording, etc. 14.1. *Compliance with Requirements, etc.* Subject to section 16 relating to contests, the Company at its expense will promptly and diligently (a) comply with all Legal Requirements and Insurance Requirements, whether or not compliance therewith shall require structural changes in, or interfere with the use and enjoyment of, the Property or any part thereof, (b) use its best efforts to procure and maintain all permits (including all operating permits required to be obtained from the New York State Department of Environmental Conservation prior to the operation of the Property in connection with each of the Plants), licenses and other authorizations required for any use of the Property or the Underwater Land or any part thereof then being made, and for the proper erection, installation, operation and maintenance of any Improvements or Additions or any part thereof, and (c) comply with any instruments of record at the time in force affecting the Underwater Land.

14.2. *Recording, etc.* From time to time at the request of the Authority, the Company, at its expense, will execute, deliver and record all such documents, post such notices, pay such fees and comply with such laws and regulations as the Authority (or the mortgagee or trustee under any mortgage or deed of trust covering the Authority's interest in this Lease) shall reasonably request to preserve and protect the title of the Authority (or such mortgagee or trustee) to the Property and the Underwater Land.

15. Liens, etc. The Company will not directly or indirectly create or permit to be created or to remain, and will discharge, any mortgage, lien, encumbrance or charge on, pledge of, or security interest, conditional sale or other title retention agreement with respect to the Property or the Underwater Land or any part thereof, the Company's interest therein or the Basic Rent, Additional Rent or any other sum payable under this Lease, other than (a) this Lease and any assignment or sublease hereof permitted hereby, (b) any liens or encumbrances created by the Authority, (c) liens for taxes or Impositions not yet payable, or payable without the addition of any fine, penalty, interest or cost for nonpayment, or being contested as permitted by section 16, (d) Company Mortgages to the extent they attach to the Company's leasehold interest in the Property and to the Company's express rights hereunder, and (e) liens of mechanics, materialmen, suppliers or vendors, or rights thereto, incurred in the ordinary course of business for sums which under the terms of the related contracts are not at the time due.

16. Permitted Contests. The Company at its expense may contest (in the case of any item of importance, after notice to the Authority), by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any tax or Imposition or lien therefor or any Legal Requirement or the application of any instrument of record referred to in section 14, *provided* that (a) in the case of an unpaid tax or Imposition or lien therefor, such proceedings shall suspend the collection thereof from the Authority, the Property and the Underwater Land, (b) neither the Property or the Underwater Land nor any part thereof or interest of the Authority (or the mortgagee or trustee under any mortgage or deed of trust covering the Authority's interest in this Lease) therein would be in any danger of being sold, forfeited or lost, (c) in the case of a Legal Requirement, the Authority would not be in any danger of any additional civil or any criminal liability for failure to comply therewith and neither the Property nor the Underwater Land would be subject to the imposition of any lien as a result of such failure, except such liens as shall be bonded to the satisfaction of the Authority, and (d) the Company shall have furnished such security, if any, as may be required in the proceedings.

(including, without limitation, attorneys' fees and expenses but excluding taxes which do not constitute Impositions as defined in section 36) imposed upon or incurred by or asserted against the Authority, the Property, the Underwater Land or any such mortgagee or trustee by reason of the occurrence or existence (or the alleged occurrence or existence) of any of the following during the term hereof or thereafter while the Company is in possession of the Property (including all such liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses arising, in whole or in part, from negligence imputed to the Authority or such mortgagee or trustee by reason of its ownership of the Property or the Underwater Land or its failure to perform any obligation imposed upon it by reason of such ownership, but excluding any such liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses arising out of other negligence or willful acts of the Authority or such mortgagee or trustee or arising out of any lack of legal power or authority on the part of the Authority to own the Property or to enter into and perform this Lease or the Facilities Construction Contract): (a) ownership of the Property or the Underwater Land or any interest therein or receipt of any rent or other sum therefrom, (b) any accident, injury to or death of persons or loss of or damage to property occurring on or about the Property or the Underwater Land or any part thereof or occurring on or about the adjoining area as a result of or in connection with the Company's use or occupancy of the Property or the Underwater Land, (c) any accident, injury to or death of persons or loss of or damage to property occurring as a result of or in connection with the operation of the Plants or the emanation of any effluents therefrom, (d) any use, nonuse or condition of the Property or the Underwater Land or any part thereof or any use, nonuse or condition of the adjoining area resulting from the Company's use or occupancy of the Property or the Underwater Land, (e) any failure on the part of the Company to perform or comply with any of the terms of this Lease, (f) any performance of any labor or services or the furnishing of any materials or other property in respect of the Property or the Underwater Land or any part thereof, or (g) any negligent or tortious act on the part of the Company or any of its agents, contractors, sublessees, licensees or invitees. In case any action, suit or proceeding is brought against the Authority or such mortgagee or trustee by reason of any such occurrence, the Company, upon request, will at the Company's expense resist and defend such action, suit, proceeding or cause the same to be resisted and defended by counsel designated by the Company and approved by the Authority or such mortgagee or trustee, as the case may be; *provided* that the Company shall not be obligated to indemnify the Authority or such mortgagee or trustee from or against liabilities which may be imposed upon or asserted against the Authority by third parties by reason of a "nuclear incident" (as such term is defined in the Atomic Energy Act of 1954, as amended, or in any other legislation superseding or replacing such Act) if the Authority or such mortgagee or trustee shall be protected from liability for all claims arising out of or resulting from such nuclear incident either by reason of indemnification by the Federal government under the indemnity agreement referred to in section 19.2, limitation of liability by Federal statute or a combination of both. The obligations of the Company under this section shall survive any termination of this Lease.

12. **Inspection, etc.** Subject to all reasonable Company safety regulations and personnel identification requirements, the Authority and its authorized representatives may enter the Company's property at all reasonable times for the purpose of (a) inspecting the Property and (b) posting notices of nonresponsibility for liens of mechanics, materialmen, suppliers or vendors, *provided* that such inspecting and posting of notices shall not interfere with the construction or operation of any of the Plants. The Authority shall not have any duty to make any such inspection and shall not incur any liability or obligation for not making any such inspection.

13. **Payment of Impositions, etc.** Subject to section 16 relating to contests, the Company will pay all Impositions before any fine, penalty, interest or cost may be added for nonpayment, and will furnish to the Authority, upon request, official receipts or other satisfactory proof evidencing such payment. The Authority will give prompt written notice to the Company of receipt by the Authority of any notice of nonpayment of any Impositions and will otherwise reasonably cooperate with the Com

Improvement (other than those Improvements required to be made by section 7) shall be made without the prior written consent of the Authority, which consent shall not be unreasonably withheld if such Addition or Improvement shall not materially impair the utility or effectiveness of the Property for the purposes set forth in section 1 or reduce the value of the Property and shall not, in any event, be withheld if such Addition or Improvement is required by a Legal Requirement, and *provided, further*, that any such Addition or Improvement shall, (a) be effected with due diligence, in a good and workmanlike manner and in compliance with all Legal Requirements and Insurance Requirements, (b) be promptly and fully paid for by the Company, and (c) if the Authority shall reasonably believe that such Addition or Improvement may materially affect the operation of any of the Property, and shall have so notified the Company in writing, be made under the supervision of an architect or engineer reasonably satisfactory to the Authority and in accordance with plans and specifications reasonably acceptable to the Authority. All Improvements (but not Additions) shall be the property of the Authority and shall constitute a part of the Property subject to this Lease. Title to all materials procured by the Company in order to make any Improvement pursuant to this section 8 shall not vest in the Company but shall immediately vest in the Authority, and shall constitute a part of the Property subject to this Lease.

8.2. *Construction by Authority.* If the Company shall determine (a) to make any improvement or addition to the Property which, when made, will constitute an Addition, or (b) to undertake any ecological study relating to the operation or proposed operation of the Property and to capitalize the cost of such study in the Company's utility plant account, it will, in either such case, give notice to the Authority of such intention at least 90 days prior to the commencement of such improvement, addition or study. In such event the Company and the Authority will use their best efforts to arrive at a mutually acceptable arrangement pursuant to which such improvement, addition or study will be constructed or conducted by or on behalf of the Authority and included within the terms of this Lease, *provided* that the Authority shall not be obligated to seek any such arrangement except with respect to an improvement, addition or study which, in the Authority's judgment, will further its programmatic objectives.

9. *Ownership of Additions.* All Additions shall be and remain the property of the Company, *provided* that (a) upon the occurrence of an Event of Default, the Authority shall, to the extent permitted by law, have (in addition to all other rights) a right of distress for rent and a lien on all Additions then owned by the Company as security for all Basic Rent, Additional Rent and other sums payable under this Lease, and (b) to the extent permitted by Company Mortgages, any Additions not removed by the Company at its expense within 60 days after any repossession of the Property (whether or not this Lease has been terminated) shall be considered abandoned by the Company and may be appropriated, sold, destroyed, or otherwise disposed of by the Authority without notice to the Company and without obligation to account therefor. The Company will immediately repair at its expense all damage to the Property caused by any removal of Additions therefrom, whether effected by the Company or the Authority. The Authority shall not be responsible for any loss of or damage to Additions.

10. *No Claims Against Authority, etc.* Nothing contained in this Lease shall constitute any consent or request by the Authority, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof, nor as giving the Company any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against the Authority in respect thereof.

11. *Indemnification by Company.* The Company will protect, indemnify and save harmless the Authority and, so long as the Property or the Authority's interest in this Lease shall be subject to any mortgage or deed of trust, the mortgagee or trustee, as the case may be, thereunder from and against all liabilities, obligations, claims, damages, Impositions, penalties, causes of action, costs and expenses

destruction of or any Taking of the Property or any part thereof, (b) any restriction on or prevention of or interference with any use of the Property or any part thereof, (c) any title defect or encumbrance or any eviction from the land on which the Property or any part thereof is situated by title paramount or otherwise, (d) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to the Authority, or any action taken with respect to this Lease by any trustee or receiver of the Authority or by any court, in any such proceedings, (e) any claim which the Company has or might have against the Authority, (f) any failure on the part of the Authority to perform or comply with any of the terms hereof or of any other agreement with the Company, or (g) any other occurrence whatsoever, whether or not the Company shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, the Company waives all rights now or hereafter conferred by statute or otherwise to quit, terminate or surrender this Lease or the Property or any part thereof, or to any abatement, suspension, deferment, diminution or reduction of Basic Rent, Additional Rent or any other sum payable by the Company hereunder.

6. Condition and Use of Property; Quiet Enjoyment. 6.1. *Condition and Use.* The Company represents that the Property (which is to be constructed by the Company under the Facilities Construction Contract) will be suitable for the uses contemplated by this Lease. The obligations of the Company hereunder shall not be affected by the failure to construct the Property or any defect in the condition, fitness or availability of the Property for any particular use. However, the Authority will assign or otherwise make available to the Company such rights as the Authority may have under any warranty with respect to the Property made by any Subcontractor (as defined in the Facilities Construction Contract) and any other claims the Authority may have during the term of this Lease against any such Subcontractor or any person other than the Company with respect to the Property. The Company will use the Property, subject to section 18.2, for the purposes set forth in section 1 and, in conjunction with such use, for any other purposes which the Authority may approve (such approval not to be unreasonably withheld), but the Company will not permit any use, nonuse or condition of the Property which is contrary to any Legal Requirement or Insurance Requirement, or which might impair the value or usefulness of the Property or any part thereof, or which constitutes a public or private nuisance or waste.

6.2. *Quiet Enjoyment.* The Authority will take no action, except as expressly set forth in this Lease, to disturb the Company's quiet enjoyment of the Property during the term of this Lease. Without limiting the generality of the foregoing, the Authority will not interfere with the Company's use of the Underwater Land to the extent reasonably required by the Company for the construction, operation and maintenance of the Property and any Additions or Improvements.

7. Maintenance and Repairs, Shoring, etc. The Company at its expense will maintain the Property in good operating condition, ordinary wear and tear excepted, and will make all necessary or appropriate Improvements consisting of repairs, replacements and renewals, whether interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen. All such Improvements shall be equal in quality and class to the original work. The Company, at its expense, will do or cause others to do every act necessary or appropriate for the preservation and safety of the Property by reason of, or in connection with any excavation, construction or operation upon, under or adjacent to the Property, including, without limitation, all shoring of the ground upon which the Property is situated or adjacent thereto, whether or not the owner of the Property or such ground shall be required by any Legal Requirement to take such action or be liable for failure to do so. Title to all materials procured by the Company in order to make Improvements pursuant to this section 7 shall not vest in the Company but shall immediately vest in the Authority, and shall constitute a part of the Property subject to this Lease.

8. Additions and Other Improvements. 8.1. *Construction by Company.* If not at the time in Default under this Lease, the Company at its expense may, subject to section 8.2, make reasonable Additions and Improvements to the Property or any part thereof, provided that no such Addition or

3. **Basic Rent.** The Company will pay to the Authority a net basic rent ("Basic Rent") as follows:

(a) for that portion of the initial term of this Lease prior to the Completion Date, \$100, payable on the first day of the initial term of this Lease;

(b) for that portion of the initial term of this Lease commencing on the Completion Date and ending immediately prior to the January 1, April 1, July 1 or October 1 next succeeding the Completion Date, an amount equal to 8% of the Project Cost multiplied by a fraction the numerator of which is the number of days comprised within such period and the denominator of which is 365, payable on the Completion Date;

(c) for the remaining portion of the initial term of this Lease, a quarterly Basic Rent in an amount equal to 2.091534% of the Project Cost, payable on the first day of January, April, July and October of each year, in advance, commencing on the first such day next succeeding the Completion Date; and

(d) for any renewal term, an annual Basic Rent in an amount equal to 7% of the Appraised Value of the Property (determined on the basis of the value of the Property free of this Lease) as of a date 16 months prior to the commencement of such renewal term, payable in equal quarterly installments on the first day of January, April, July and October of each year during such renewal term, in advance.

The dates upon which Basic Rent is payable under this Lease (including any renewal term) are herein called "Rent Payment Dates".

In the event the Authority and the Company have not agreed in writing 18 months before the commencement of any renewal term to a specific annual Basic Rent for such renewal term, the Company on or prior to the day 15 months prior to the date on which such renewal term shall commence shall submit an Initial Appraisal of the value of the Property as of 16 months prior to such date.

The Basic Rent and other sums payable to the Authority hereunder shall be payable in such currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and shall be paid to the Authority at the Authority's address set forth in or pursuant to section 38 or to such agent or person or persons or at such other address as the Authority from time to time may designate by notice to the Company. The Basic Rent shall be absolutely net to the Authority so that this Lease shall yield to the Authority the full amounts of the installments of Basic Rent throughout the term of this Lease without deduction.

4. **Additional Rent.** The Company will also pay, from time to time as provided in this Lease or on demand of the Authority, as additional rent ("Additional Rent"), (a) all other amounts, liabilities and obligations which the Company herein assumes or agrees to pay, (b) interest at the rate of 8½% per annum on such of the foregoing amounts, liabilities and obligations as are payable to the Authority and are not paid (under protest or otherwise) within 10 days of the date of such demand, from the date of such demand until payment thereof, and (c) interest at the rate of 8½% per annum on all overdue installments of Basic Rent, from the due date thereof until payment. In the event of any failure on the part of the Company to pay any Additional Rent, the Authority shall have all the rights, powers and remedies provided for in this Lease or by law or in equity or otherwise in the case of nonpayment of Basic Rent. The Authority appoints the Company the attorney-in-fact of the Authority for the purpose of making all payments of Additional Rent required to be made to persons other than the Authority. In case any such person shall refuse to accept payment of such Additional Rent from the Company, the Company shall thereupon give notice of such fact to the Authority and shall pay such Additional Rent directly to the Authority at the place where the Basic Rent is then payable as provided in section 3.

5. **No Counterclaim, Abatement, etc.** Basic Rent, Additional Rent and all other sums payable by the Company hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of the Company hereunder shall in no way be released, discharged or otherwise affected (except as otherwise expressly provided herein) by reason of (a) any damage to or

LEASE, dated as of July 1, 1971, between New York State Atomic and Space Development Authority, a New York public benefit corporation (the "Authority"), and Consolidated Edison Company of New York, Inc., a New York corporation (the "Company").

WHEREAS, the State of New York has determined that the development and use of atomic energy for peaceful and productive purposes is a matter of important concern to the economic growth of the State and it is the statutorily declared policy of the State of New York to encourage within New York such development and use to the maximum extent consistent with the health and safety of the public;

WHEREAS, in furtherance of this policy, the Authority has been expressly authorized to contract with power companies to participate in the incorporation of features in nuclear power plants and the construction of associated facilities to the extent required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics;

WHEREAS, pursuant to such authorization, the Authority has entered into a contract (the "Facilities Construction Contract") with the Company under which the Company has agreed to construct for the Authority an outfall structure at Buchanan, New York, to be used in connection with the Company's nuclear generating facilities, in order to protect the waters of the Hudson River; and

WHEREAS, the Authority desires to lease such structure to the Company on the terms and conditions set forth herein and the Company desires to lease such structure from the Authority on such terms and conditions;

Now, THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

1. **Leased Property; Initial Term of Lease.** Upon and subject to the conditions and limitations set forth below, the Authority leases to the Company, and the Company rents from the Authority, the following property (the "Property"):

(a) the outfall structure (more fully described in Schedule A attached hereto) for the release of cooling water from the Company's Indian Point Nuclear Generating Units Nos. 1, 2 and 3 (the "Plants") at Buchanan, New York;

(b) all Improvements (such term, together with certain other capitalized terms used herein, being defined in section 36), to such outfall structure; and

(c) all easements, rights of way or use, servitudes, licenses, permits, leases, tenements, hereditaments and appurtenances now or hereafter held by the Authority and used or procured for use in connection with the operation, maintenance or protection of any of the foregoing;

to have and to hold the Property for an initial term commencing on July 1, 1971, and expiring at midnight on the thirty-fifth anniversary of the January 1, April 1, July 1 or October ³¹ next succeeding the Completion Date, and, at the Company's option, for the renewal term or terms provided for in section 2, unless this Lease shall sooner terminate as provided herein.

2. **Renewal Terms.** If the Company is not at the time in Default hereunder, it shall have the right to extend the term of this Lease for not more than two successive terms of 10 years each, upon the same conditions and subject to the same limitations as are contained herein for the initial term, except that the Basic Rent payable during any such renewal term shall be as set forth in section 3 and except that the term of this Lease may not be extended beyond the second such renewal term. The Company shall exercise its right to extend the term of this Lease by giving to the Authority notice of such exercise (a) in the case of the first such renewal term, not less than 6 months prior to the expiration of the initial term, and (b) in the case of the second such renewal term, not less than 6 months prior to the expiration of the first such renewal term.

File added to ASDA dated 2/26/1971

Exhibit B

Lease Extension between New York State Energy Research and Development Authority, Successor to New York State Atomic and Space Development Authority, and Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC, Successor to Consolidated Edison Company of New York, Inc. (August 1, 2016)



Entergy Services, Inc.
639 Loyola Avenue, 13th Floor
New Orleans, LA 70113

Tel (504) 576 2328
Fax (504) 576 4001

August 1, 2016

Reginald Jackson
Director – Administrative Services

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

New York State Energy Research and
Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Re: **Lease dated July 1, 1971 between New York State Energy Research and
Development Authority, Successor to New York State Atomic and Space
Development Authority as Lessor, and Entergy Nuclear Indian Point 2, LLC and
Entergy Nuclear Indian Point 3, LLC, successor to Consolidated Edison Company
of New York, Inc. (the "Lease")**

Ladies and Gentlemen:

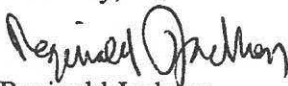
By this letter, Lessee elects to extend the term of the Lease for an additional ten (10) year period which commences on April 1, 2017 and expires on March 31, 2027. Pursuant to Section 3(d) of the Lease, Lessee submitted the November 30, 2015 Duff & Phelps' Initial Appraisal to the Lessor to establish the new Basic Rent. The Initial Appraisal was accepted by the Lessor on March 15, 2016. Therefore, commencing on April 1, 2017, the new Basic Rent is:

\$204,000/quarter or \$816,000/year

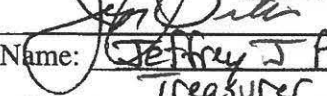
Capitalized terms not otherwise defined in this letter shall have the meaning given them in the Lease. Please acknowledge your receipt of this letter by signing the duplicate original and returning it to me in the enclosed UPS envelope.

If you have any questions regarding this renewal, please call Steve Miller at (504) 576-2328.

Sincerely,


Reginald Jackson

Receipt Acknowledged:

By: 
Print Name: Jeffrey J. Pitkin
Its: Treasurer
Date: 8/5/16

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE SECRETARY

In the Matter of

ENTERGY NUCLEAR OPERATIONS, INC.;
ENTERGY NUCLEAR INDIAN
POINT 2, LLC; ENTERGY NUCLEAR
INDIAN POINT 3, LLC; HOLTEC
INTERNATIONAL; and HOLTEC
DECOMMISSIONING INTERNATIONAL,
LLC; APPLICATION FOR ORDER
CONSENTING TO TRANSFERS OF
CONTROL OF LICENSES AND
APPROVING CONFORMING LICENSE
AMENDMENTS

Docket Nos.:
50-3
50-247
50-286
72-051

(Indian Point Nuclear Generating Station)

CERTIFICATION OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that I served the foregoing Declaration of Alyse L. Peterson via the NRC's Electronic Information Exchange on this 12th day of February, 2020.

Signed (electronically) by

Joshua M. Tallent
Assistant Attorney General
Environmental Protection Bureau
The Capitol
Albany, NY 12224
(518) 776-2456
Joshua.Tallent@ag.ny.gov