

deems to be in its best interest. Customer agrees to cooperate with, and to not oppose, obstruct or otherwise interfere with in any manner whatsoever, unless such actions by the Pipeline have a material adverse impact on the ability of the Customer to construct its facility and provided that such actions by Pipeline are not inconsistent with any of the terms and conditions of this Agreement, the efforts of Pipeline to obtain all authorizations and/or exemptions and supplements and amendments thereto necessary for Pipeline to construct, own, operate, and maintain the Project facilities and to provide the firm transportation service contemplated in this Precedent Agreement and to perform its obligations as contemplated by this Precedent Agreement.

2. Within ninety days (90) days after execution of this Precedent Agreement, Customer will advise Pipeline in writing of: (i) all facilities which the Customer proposes to construct, or cause to be constructed, in order for Customer to utilize the firm transportation service contemplated in this Precedent Agreement; and (ii) any necessary governmental and/or regulatory authorizations, approvals, certificates, permits and/or exemptions associated with the facilities that the Customer has identified pursuant to (i) above ("Customer's Authorizations").

3. Subject to the terms and conditions of this Precedent Agreement, Customer shall proceed with due diligence to obtain Customer's Authorizations. Customer reserves the right to file and prosecute applications for Customer's Authorizations in a manner it deems to be in its best interest; provided, however, Customer shall use reasonable efforts to pursue Customer's Authorizations in a manner designed to implement the firm transportation service contemplated herein in a timely manner and Customer shall not take any action that would obstruct, interfere with or

delay Pipeline's receipt of the authorizations and/or exemptions and any supplements and amendments thereto contemplated hereunder or otherwise jeopardize implementation of the firm transportation service contemplated in this Precedent Agreement, unless such actions by Pipeline have a material adverse impact on the ability of the Customer to construct its facility or such actions are materially inconsistent with any of the terms and conditions of this Agreement. Pipeline agrees to use reasonable efforts to assist Customer in obtaining Customer's Authorizations. Customer agrees to promptly notify Pipeline in writing when each of the required authorizations, arrangements, approvals and/or exemptions are received, obtained, rejected or denied. Customer shall also promptly notify Pipeline in writing as to whether any such authorizations, arrangements, approvals, and/or exemptions received or obtained are acceptable to Customer.

4. To effectuate the firm transportation service contemplated herein, Customer and Pipeline agree to execute, by the later of thirty days (30) days after the date on which the Commission issues an order granting Pipeline a certificate of public convenience and necessity to construct the Project facilities, or January 1, 2003, a firm transportation service agreement under Pipeline's proposed year-round firm service rate schedule on file with the Commission ("Service Agreement") a copy of which is attached to this document as Exhibit A, which: (i) specifies a Maximum Daily Transportation Quantity ("MDTQ") of 90,000 dekatherms per day ("Dth/d"), exclusive of fuel requirements, with Customer having the right to reduce the MDTQ by up to 40,000 Dth/d to a level not to be less than 50,000 Dth/d, such right to be exercised by Customer providing written notice to Pipeline on or before June 1, 2002; (ii) specifies a

primary term of ten years (10); (iii) specifies a point of receipt at the proposed interconnection between Pipeline's facilities and Algonquin's pipeline facilities in Connecticut and a point of delivery at the interconnection between Pipeline's facilities and the Brookhaven Plant in the Brookhaven, New York area; and (iv) shall be subject to an NGA Section 7(c) initial rate (unless Pipeline and Customer mutually agree upon a negotiated or discounted rate), plus applicable fuel retainage, and all applicable surcharges. Service pursuant to the Service Agreement will commence on the date specified by Pipeline in its written notice to Customer pursuant to Paragraph 5 of this Precedent Agreement.

5. Upon satisfaction or waiver of all the conditions precedent set forth in Paragraph 8 of this Precedent Agreement, Pipeline shall notify Customer of such fact, and that service under the Service Agreement will commence on a date certain, which date will be the later of: (i) November 1, 2003; (ii) the date that all of the conditions precedent set forth in Paragraph 8 of this Precedent Agreement are satisfied or waived; or (iii) the date that Customer first receives natural gas through metering facilities for the Brookhaven Plant; provided however, that in the event service commences pursuant to Paragraph 5(iii) hereof, then the service commencement date under the Service Agreement shall be deemed to be the first day of the month in which Customer first receives natural gas through the metering facilities for the Brookhaven Plant; and provided, further that, in no event shall service pursuant to Paragraph 5(iii) commence later than July 1, 2004. On and after the date on which Pipeline has notified Customer that service under the Service Agreement will commence, Pipeline will stand ready to provide firm transportation service for Customer pursuant to the terms of the Service

Agreement and Customer will pay Pipeline for all applicable charges associated with the Service Agreement.

6. Pipeline will undertake the design of facilities and any other preparatory actions necessary for Pipeline to complete and file its certificate application(s) with the Commission. Prior to satisfaction of the conditions precedent set forth in Paragraph 8 of this Precedent Agreement (with the exception of 8(A)(vii)), Pipeline shall have the right, but not the obligation, to proceed with the necessary design of facilities, acquisition of materials, supplies, properties, rights-of-way and any other necessary preparations to implement the firm transportation service under the Service Agreement as contemplated in this Precedent Agreement.

7. Upon satisfaction of the conditions precedent set forth in Paragraphs 8(A)(i) through 8(A)(vi), inclusive, and 8(B)(i) through 8(B)(vi), inclusive of this Precedent Agreement, or waiver of the same by Pipeline or Customer, as applicable, Pipeline shall proceed (subject to the continuing commitments of all customers executing precedent agreements and service agreements for service utilizing the firm transportation capacity to be made available by the Project) with due diligence to construct the authorized Project facilities and to implement the firm transportation service contemplated in this Precedent Agreement on or about November 1, 2003. Notwithstanding Pipeline's due diligence, if Pipeline is unable to commence the firm transportation service for Customer as contemplated herein by November 1, 2003, Pipeline will continue to proceed with due diligence to complete arrangements for such firm transportation service, and commence the firm transportation service for Customer at the earliest practicable date thereafter. Pipeline will provide the Customer information

on a timely basis as to its construction schedule, including any delay to the in-service date. Pipeline will neither be liable nor will this Precedent Agreement or the Service Agreement be subject to cancellation if Pipeline is unable to complete the construction of such authorized Project facilities and commence the firm transportation service contemplated herein by November 1, 2003.

8. Commencement of service under the Service Agreement and Pipeline's and Customer's rights and obligations under the Service Agreement are expressly made subject to satisfaction of the following conditions precedent:

(A) Pipeline's (only Pipeline shall have the right to waive the conditions precedent set forth in Paragraph 8(A)):

- (i) execution of sufficient precedent agreements and service agreements with customers to economically justify, in Pipeline's sole opinion, construction of the Project facilities;
- (ii) receipt and acceptance by September 1, 2002, of all necessary certificates and authorizations from the Commission to construct, own, operate and maintain the Project facilities, as described in Pipeline's certificate application as it may be amended from time to time, necessary to provide the firm transportation service contemplated herein and in the Service Agreement and to charge the initial Section 7(c) rates requested, as contemplated in this Precedent Agreement;

- (iii) receipt of approval from its Management Committee or similar governing body to expend the capital necessary to construct the Project facilities which approval shall be deemed received unless the Pipeline provides notice to Customer in writing of a denial of such approval(s) by January 1, 2003;
- (iv) receipt of all necessary governmental authorizations, approvals, and permits required to construct the Project facilities necessary to provide the firm transportation service contemplated herein and in the Service Agreement other than those specified in Paragraph 8(A)(ii);
- (v) procurement of all necessary rights-of-way easements or permits in form and substance acceptable to Pipeline in a time frame which will accommodate the proposed in-service date;
- (vi) receipt of funding from banks or other financial institutions ("Project Lenders") in accordance with agreements governing the long-term financing for the development and construction of the Project facilities; and
- (vii) completion of construction of the necessary Project facilities required to render firm transportation service for Customer pursuant to the Service Agreement and Pipeline being ready and able to place such facilities into gas service.

(B) Customer's (only Customer shall have the right to waive the conditions precedent set forth in Paragraph 8(B)):

- (i) receipt by January 1, 2003 of all necessary Board of Director or similar governing body approvals to participate in the Project as a shipper;
- (ii) commencement of construction of the Brookhaven Plant by January 1, 2003;
- (iii) receipt by January 1, 2003, of all necessary Board of Director or similar governing body approvals to expend the capital and commit to a financing structure necessary to construct the Brookhaven Project;
- (iv) procurement of all necessary gas supply and/or additional transportation contracts in a form and substance acceptable to the Customer by January 1, 2003;
- (v) receipt and acceptance of all necessary regulatory and governmental certificates and approvals to construct the Brookhaven Plant; and
- (vi) commencement of construction of Algonquin Gas Transmission Company's Hub Line Project that will allow deliveries of gas via the Algonquin pipeline to the Project for ultimate delivery to the Brookhaven Plant by its in-service date.

Unless otherwise provided for herein, the Commission authorization(s) and approval(s) contemplated in Paragraph 1 and Paragraph 3 of this Precedent Agreement must be issued in form and substance satisfactory to both Parties hereto with it being understood that acceptance shall not be unreasonably withheld. For the purposes of this Precedent Agreement, such Commission authorization(s) and approval(s) shall be deemed satisfactory if issued or granted in form and substance as requested, or if issued in a manner acceptable to Pipeline or Customer, as applicable, and such authorization(s) and approval(s), as issued, will not have a material adverse effect on Customer. Pipeline shall notify Customer in writing promptly upon the issuance of the Commission certificate(s), authorization(s) and approval(s), including any order issued as a preliminary determination on non-environmental issues, contemplated in Paragraph 1 of this Precedent Agreement, and not later than fifteen (15) days after Pipeline makes any such written notification(s), Customer shall notify Pipeline in writing if such certificate(s), authorization(s) and approval(s) are not satisfactory to Customer. All other governmental authorizations, approvals, permits and/or exemptions must be issued in form and substance acceptable to both Pipeline and Customer. All governmental approvals required by this Precedent Agreement must be duly granted by the Commission or other governmental agency or authority having jurisdiction, and must be final and no longer subject to rehearing or appeal; provided, however, either party may waive the requirement that its applicable authorization(s) and approval(s) be final and no longer subject to rehearing or appeal.

9. If Customer: (i) terminates this Precedent Agreement for any reason on or after the earlier of thirty (30) days after satisfaction or waiver of the condition in Paragraph 8(A)(ii), or October 1, 2002; (ii) otherwise fails to perform, in whole or in part, its duties and obligations hereunder; or (iii) interferes with or obstructs the receipt by Pipeline of the authorizations and/or exemptions contemplated by this Precedent Agreement as requested by Pipeline and Pipeline does not receive the authorizations and/or exemptions in form and substance as requested by Pipeline or does not receive such authorizations and/or exemptions at all, then Customer shall, at the option and election of Pipeline, reimburse Pipeline for Customer's proportionate share (as prorated based on initial MDTQs among all customers taking actions described in this Paragraph 9) of Pipeline's reasonable costs incurred, accrued, allocated to, or for which Pipeline is contractually obligated to pay in conjunction with its efforts to satisfy its obligations under this Precedent Agreement ("Pre-service Costs"). Pre-service Costs will include, but will not be limited to, those reasonable expenditures and/or costs incurred, accrued, allocated to, or for which Pipeline is contractually obligated to pay associated with engineering, construction, materials and equipment, environmental, regulatory, and/or legal activities, and internal overhead and administration and any other costs related to the firm service contemplated in this Precedent Agreement incurred in furtherance of Pipeline's efforts to satisfy its obligations under this Precedent Agreement. Customer's liability for all Pre-service Costs shall not to exceed \$500,000. Customer shall have the right to audit Pipeline's records related to the Project so that any disputed costs can be substantiated. Customer also may terminate this Agreement at any time prior to January 1, 2003, upon fifteen (15) days prior written notice to

Pipeline, if Customer, in good faith and in its reasonable discretion, determines that construction of the Brookhaven Plant is no longer economically viable. In the event Customer terminates the Agreement on this basis, then Customer's liability for Pre-Service Costs shall be determined as set forth above in this Paragraph 9. Notwithstanding the foregoing, the Parties acknowledge and agree that either party shall not be precluded from seeking recovery for additional amounts related to breach of contract.

10. If the conditions precedent set forth in Paragraph 8 of this Precedent Agreement, excluding the condition precedent set forth in Paragraph 8 (A)(vii), have not been fully satisfied, or waived by Pipeline or Customer, as applicable, by the earlier of the applicable dates specified therein or July 1, 2004 and this Precedent Agreement has not been terminated pursuant to Paragraphs 11 or 12 of this Precedent Agreement, then either Pipeline or Customer may thereafter terminate this Precedent Agreement and the related Service Agreement by giving ninety (90) days prior written notice of its intention to terminate to the non-terminating Party; provided, however, if the conditions precedent are satisfied, or waived by Pipeline or Customer, as applicable, within such ninety (90) day notice period, then termination will not be effective.

11. In addition to the provisions of Paragraph 10 of this Precedent Agreement, Pipeline may terminate this Precedent Agreement at any time upon fifteen (15) days prior written notice to Customer if Pipeline, in its sole discretion, determines for any reason that the Project contemplated herein is no longer economically viable or if substantially all of the other precedent agreements, service agreements or other

contractual arrangements for the firm service to be made available by the Project are terminated, other than by reason of commencement of service.

12. If this Precedent Agreement is not terminated pursuant to Paragraph 10 or 11 of this Precedent Agreement, then this Precedent Agreement will terminate by its express terms on the date of commencement of service under the Service Agreement, as provided for in Paragraph 5 of this Precedent Agreement, and thereafter Pipeline's and Customer's rights and obligations related to the transportation transaction contemplated herein shall be determined pursuant to the terms and conditions of such Service Agreement and Pipeline's FERC Gas Tariff, as effective from time to time.

13. Customer commits that it can and will, promptly upon request by Pipeline, such request to be made no sooner than [thirty (30) days after issuance of a Commission order granting Pipeline a certificate of public convenience and necessity] , satisfy the following creditworthiness requirements:

(A) Customer (or any entity that guarantees Customer's obligations under the Service Agreement) has an investment grade rating for its long term senior unsecured debt from Moody's Investors Services, Inc. of Baa3 or higher or from Standard & Poor's of BBB or higher. In the event that Customer meets the requirement contained in the immediately preceding sentence initially, but is later downgraded below such investment grade rating. Customer will be required to meet on of the requirements in Paragraph 13(B).

(B) Any time and from time to time that Customer does not meet the requirements set forth in the first sentence of Paragraph 13(A), Customer will be

accepted as creditworthy by Pipeline if (i) Pipeline determines that, notwithstanding the absence of an acceptable credit rating, the financial position of Customer (or an entity that guarantees Customer's obligations under the Service Agreement) is acceptable to Pipeline and its lenders, or (ii) Customer provides an irrevocable letter of credit or other security in such amounts and with such other terms and conditions as shall be acceptable to Pipeline and its lenders.

(C) This Paragraph 13 shall survive the termination of the Precedent Agreement and shall remain in effect until the Service Agreement terminates in accordance with its terms.

14. This Precedent Agreement may not be modified or amended unless the Parties agree and execute written agreements to that effect.

15. (A) Any company which succeeds by purchase, merger, or consolidation of title to the properties, substantially as an entirety, of Pipeline or Customer, will be entitled to the rights and will be subject to the obligations of its predecessor in title under this Precedent Agreement. Otherwise, except with respect to Paragraph 15(B), neither Customer nor Pipeline may assign any of its rights or obligations under this Precedent Agreement without the prior written consent of the other Party hereto, such assignment shall not be unreasonably withheld.

(B) Customer acknowledges and agrees that Pipeline shall have the right to assign, mortgage, or pledge all or any of its rights, interests, and benefits under this Precedent Agreement and/or the Service Agreement to secure payment of any indebtedness incurred or to be incurred in connection with the development and

construction of the Project facilities. Customer shall provide to the Project Lenders such assurances and undertakings as they may require in connection with such assignment, so long as the Customer in good faith and in its reasonable discretion agrees that terms thereof are reasonable and not contrary to market standard for such assurances and undertakings and do not decrease Customer's rights or increase its obligations under this Precedent Agreement or the Service Agreement in any material manner.

(C) Pipeline acknowledges and agrees that Customer shall have the right to assign, mortgage, or pledge all or any of its rights, interests, and benefits under this Precedent Agreement and/or the Service Agreement to secure payment of any indebtedness incurred or to be incurred in connection with the development and construction of the Brookhaven Plant facilities. Pipeline shall provide to the Project Lenders such assurances and undertakings as they may reasonably require in connection with such assignment, so long as the Pipeline in good faith and in its reasonable discretion agrees that terms thereof are reasonable and not contrary to market standard for such assurances and undertakings and do not decrease Pipeline's rights or increase its obligations under this Precedent Agreement or the Service Agreement in any material manner.

16. Except as expressly provided for in this Precedent Agreement, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person not a Party hereto any rights, remedies or obligations under or by reason of this Precedent Agreement.

17. Each and every provision of this Precedent Agreement shall be considered as prepared through the joint efforts of the Parties and shall not be construed against either Party as a result of the preparation or drafting thereof. It is expressly agreed that no consideration shall be given or presumption made on the basis of who drafted this Precedent Agreement or any specific provision hereof.

18. The recitals and representations appearing first above are hereby incorporated in and made a part of this Precedent Agreement.

19. This Precedent Agreement shall be governed by, construed, interpreted, and performed in accordance with the laws of the Commonwealth of Massachusetts, without recourse to any laws governing the conflict of laws.

20. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this Precedent Agreement, or any notice which either Party desires to give to the other, must be in writing and will be considered duly delivered when mailed by registered or certified mail to the other Party's Post Office address set forth below:

Pipeline: 1284 Soldiers Field Road
Boston, Massachusetts 02135
Attn: Vice President, Marketing

Customer:

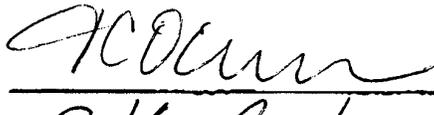
Attn: _____

or at such other address as either Party designates by written notice. Routine communications, including monthly statements, will be considered duly delivered when mailed by either registered, certified, or ordinary mail.

IN WITNESS WHEREOF, the Parties hereto have caused this Precedent Agreement to be duly executed by their duly authorized officers as of the day and year first above written.

Islander East Pipeline Company, L.L.C.,
by Duke Energy Islander East Pipeline Company, L.L.C.

Brookhaven Energy,
Limited Partnership

By: 

By: 

Title: Se. Vice President

Title: VP of Marketing and Trading

PRECEDENT AGREEMENT

This PRECEDENT AGREEMENT ("Precedent Agreement") is made and entered into this 13th day of June, 2001, by and between Islander East Pipeline Company, L.L.C., a Delaware limited liability company ("Pipeline"), and AES Endeavor, a division of AES Corporation, a Delaware corporation ("Customer"). Pipeline and Customer are sometimes referred to herein individually as a ("Party"), or collectively as the ("Parties").

WITNESSETH:

WHEREAS, Pipeline proposes to construct an interstate natural gas transmission system, extending from an interconnection with the pipeline facilities of Algonquin Gas Transmission Company ("Algonquin") in Connecticut across the Long Island Sound to Wading River, New York, and from Wading River to Brookhaven, Calverton and other points on Long Island (the "Project");

WHEREAS, from January 29, 2001 to February 28, 2001, Pipeline conducted an open season during which interested parties submitted nominations to participate in the Project;

WHEREAS, Customer submitted a nomination during the open season and desires to obtain, subject to the terms and conditions of this Precedent Agreement, firm transportation service from Pipeline as part of the Project for certain quantities of Customer's natural gas requirements necessary to fuel Customer's proposed electric generating facility to be located in the Calverton, New York area ("Calverton Plant"); and

WHEREAS, subject to the terms and conditions of this Precedent Agreement, Pipeline is willing to construct the Project and provide the firm transportation service Customer desires;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and intending to be legally bound, Pipeline and Customer agree to the following:

1. Subject to the terms and conditions of this Precedent Agreement, Pipeline shall proceed with due diligence to obtain from all governmental and regulatory authorities having competent jurisdiction over the Project, including, but not limited to, the Federal Energy Regulatory Commission ("FERC" or "Commission"), the authorizations and/or exemptions Pipeline determines are necessary: (i) for Pipeline to construct, own, operate, and maintain the Project facilities necessary to provide the firm transportation service contemplated herein, including facilities necessary to provide service to the Calverton Plant as described in this Precedent Agreement; and (ii) for Pipeline to perform its obligations as contemplated in this Precedent Agreement. Pipeline reserves the right to file and prosecute any and all applications for such authorizations and/or exemptions, any supplements or amendments thereto, and, if necessary, any court review, in a manner it deems to be in its best interest. Customer expressly agrees to use reasonable efforts to support and cooperate with, and to not oppose, obstruct or otherwise interfere with in any manner whatsoever, the efforts of Pipeline to obtain all authorizations and/or exemptions and supplements and amendments thereto necessary for Pipeline to construct, own, operate, and maintain

the Project facilities and to provide the firm transportation service contemplated in this Precedent Agreement and to perform its obligations as contemplated by this Precedent Agreement. Pipeline agrees to notify Customer in writing within ten (10) days when it receives from the Commission a preliminary determination addressing the non-environmental issues related to the Project and when it receives from the Commission a certificate of public convenience and necessity authorizing Pipeline to construct the Project facilities. Within ten (10) days of each such notice, Customer shall notify Pipeline in writing as to whether the preliminary determination and/or Commission certificate are acceptable to Customer. Notwithstanding the foregoing, Customer shall have the right to file with the Commission comments on and requests for modification of the terms and conditions of service, but only to the extent such comments or requests for modification are not materially inconsistent with the terms and conditions set forth in this Precedent Agreement and so long as such filing does not in any way jeopardize the Project or otherwise conflict with Customer's other obligations under this Precedent Agreement.

2. Within thirty (30) days after execution of this Precedent Agreement, Customer will advise Pipeline in writing of: (i) any facilities which Customer must construct, or cause to be constructed, in order for Customer to utilize the firm transportation service contemplated in this Precedent Agreement; and (ii) any necessary material governmental and/or regulatory authorizations, certificates, permits and/or exemptions associated with the facilities identified pursuant to (i) above ("Customer's Authorizations").

3. Subject to the terms and conditions of this Precedent Agreement, Customer shall proceed with due diligence to obtain Customer's Authorizations. Customer reserves the right to file and prosecute applications for Customer's Authorizations in a manner it deems to be in its best interest; provided, however, Customer shall pursue Customer's Authorizations in a manner designed to implement the firm transportation service contemplated herein in a timely manner and subject to Customer's discretion to be exercised reasonably and in good faith to continue development of Customer's Calverton Plant. Customer shall not take any action that would obstruct, interfere with or delay Pipeline's receipt of the authorizations and/or exemptions and any supplements and amendments thereto contemplated hereunder or otherwise jeopardize implementation of the firm transportation service contemplated in this Precedent Agreement. Pipeline agrees to use reasonable efforts to assist Customer in obtaining Customer's Authorizations. Customer agrees to promptly notify Pipeline when each of Customer's Authorizations is received, obtained, rejected or denied. Within thirty (30) days of such notice, Customer shall also promptly notify Pipeline in writing as to whether any such authorizations, approvals, and/or exemptions received or obtained are acceptable to Customer.

4. To effectuate the firm transportation service contemplated herein and provided that all conditions precedent have been either satisfied or waived in accordance with Paragraph 8 of this Precedent Agreement, Customer and Pipeline agree to execute, within thirty (30) days after the date on which Pipeline accepts an order granting Pipeline a certificate of public convenience and necessity to construct the Project facilities, a firm transportation service agreement under Pipeline's proposed

year-round firm service rate schedule, a form of which is attached as Exhibit A ("Service Agreement") which: (i) specifies a Maximum Daily Transportation Quantity ("MDTQ") of 60,000 dekatherms per day ("Dth/d"), exclusive of fuel requirements, with Customer having the right to reduce the MDTQ by up to 20,000 Dth/d to a level not to be less than 40,000 Dth/d, such right to be exercised by Customer providing written notice to Pipeline on or before December 31, 2002; (ii) specifies a primary term of ten (10) years; (iii) specifies a primary point of receipt at the proposed interconnection between Pipeline's facilities and Algonquin's pipeline facilities in Connecticut and a primary point of delivery at the interconnection of Pipeline's facilities and the Calverton Plant in the Calverton, New York area; (iv) shall be subject to a negotiated rate (the specific terms of which shall be set forth in a separate negotiated rate letter agreement), plus fuel retainage and/or electric power costs, if any, and the applicable ACA surcharge, as provided for in Pipeline's FERC Gas Tariff as effective from time to time; and (v) specifies that Pipeline shall maintain a minimum delivery pressure of 350 psig to the delivery point serving Customer's Calverton Plant. Service pursuant to the Service Agreement and Customer's obligation to pay for transportation service pursuant to the Service Agreement will commence on the date specified by Pipeline in its written notice to Customer pursuant to Paragraph 5 of this Precedent Agreement.

5. Upon satisfaction or waiver of all the conditions precedent set forth in Paragraph 8 of this Precedent Agreement, Pipeline shall notify Customer of such fact within thirty (30) days, and that service under the Service Agreement will commence on a date certain, which date will be the later of: (i) November 1, 2003; or (ii) the date that Customer first receives natural gas through metering facilities for the Calverton Plant;

provided, however, that in the event service commences pursuant to Paragraph 5(ii) hereof, then the service commencement date under the Service Agreement shall be deemed to be the first day of the month in which Customer first receives natural gas through the metering facilities for the Calverton Plant; and provided further that, in no event shall service pursuant to Paragraph 5(ii) commence later than July 1, 2004. On and after the date on which Pipeline has notified Customer that service under the Service Agreement will commence, Pipeline will stand ready to provide firm transportation service for Customer pursuant to the terms of the Service Agreement and Customer will pay Pipeline for all applicable charges associated with the Service Agreement pursuant to the terms of the Service Agreement.

6. Pipeline will undertake the design of facilities and any other preparatory actions necessary for Pipeline to complete and file its certificate application(s) with the Commission. Prior to satisfaction of the conditions precedent set forth in Paragraph 8 of this Precedent Agreement (with the exception of 8(A)(vii)), Pipeline shall have the right, but not the obligation, to proceed with the necessary design of facilities, acquisition of materials, supplies, properties, rights-of-way and any other necessary preparations to implement the firm transportation service under the Service Agreement as contemplated in this Precedent Agreement.

7. Upon satisfaction of the conditions precedent set forth in Paragraphs 8(A)(i) through 8(A)(vi), inclusive, and 8(B)(i) of this Precedent Agreement, or waiver of the same by the Party for whose benefit the condition(s) are imposed, Pipeline shall proceed (subject to the continuing commitments of substantially all

customers executing precedent agreements and service agreements for service utilizing the firm transportation capacity to be made available by the Project) with due diligence to construct the authorized Project facilities and to implement the firm transportation service on or about November 1, 2003, as contemplated in this Precedent Agreement. Notwithstanding Pipeline's due diligence, if Pipeline is unable to commence the firm transportation service for Customer as contemplated herein by November 1, 2003, Pipeline will continue to proceed with due diligence to complete arrangements for such firm transportation service, and commence the firm transportation service for Customer at the earliest practicable date thereafter but not later than November 1, 2004. Pipeline will neither be liable nor will this Precedent Agreement or the Service Agreement be subject to cancellation if Pipeline is unable to complete the construction of such authorized Project facilities and commence the firm transportation service contemplated herein by November 1, 2003; provided, however, this Precedent Agreement and the contemplated Service Agreement will be subject to cancellation by Customer, at Customer's sole discretion, by Customer providing to Pipeline written notice of cancellation, if Pipeline does not commence construction of such authorized Project by November 1, 2003 or commence service on the Project facilities by November 1, 2004.

8. Commencement of service under the Service Agreement and Pipeline's and Customer's rights and obligations under this Precedent Agreement and the Service Agreement are expressly made subject to satisfaction of the following conditions precedent:

(A) Pipeline's (conditions precedent for the benefit of the Pipeline):

- (i) execution of sufficient precedent agreements and service agreements with customers to economically justify, in Pipeline's sole opinion, not to be exercised unreasonably, construction of the Project facilities;
- (ii) receipt and acceptance by November 1, 2003, of all necessary certificates and authorizations from the Commission to construct, own, operate and maintain the Project facilities, as described in Pipeline's certificate application as it may be amended from time to time, necessary to provide the firm transportation service contemplated herein and in the Service Agreement and to charge the negotiated rate agreed between Pipeline and Customer, as contemplated in this Precedent Agreement;
- (iii) receipt of approval from its Management Committee or similar governing body to expend the capital necessary to construct the Project facilities within ninety (90) days after the Commission issues an order granting Pipeline a certificate of public convenience and necessity to construct the Project facilities;
- (iv) receipt of all necessary governmental authorizations, approvals, and permits required to construct the Project facilities necessary to provide the firm transportation service contemplated herein and in the Service Agreement other than those specified in Paragraph 8(A)(ii);

- (v) procurement of all necessary rights-of-way easements or permits in form and substance acceptable to Pipeline;
 - (vi) receipt of funding from banks or other financial institutions ("Project Lenders") in accordance with agreements governing the long-term financing for the development and construction of the Project facilities within sixty (60) days after the date on which FERC issues an order granting Pipeline a certificate of public convenience and necessity; and
 - (vii) completion of construction of the necessary Project facilities required to render firm transportation service for Customer pursuant to the Service Agreement and Pipeline being ready and able to place such facilities into gas service.
- (B) Customer's (conditions precedent for the benefit of the Customer):
- (i) receipt of all approvals by its Board of Directors or similar governing body to participate in the Project as a shipper within ninety (90) days after the Commission issues an order granting Pipeline a certificate of public convenience and necessity to construct the Project facilities;
 - (ii) commencement of construction of the Calverton Plant by January 1, 2003;

- (iii) receipt on or before January 1, 2003 of Customer's Authorizations on terms and conditions reasonably acceptable to Customer; and
- (iv) procurement of all necessary gas supply contracts in a form and substance acceptable to the Customer by January 1, 2003.

Unless otherwise provided for herein, the Commission authorization(s) and approval(s) contemplated in Paragraph 1 of this Precedent Agreement must be issued in form and substance satisfactory to both Parties hereto. For the purposes of this Precedent Agreement, such Commission authorization(s) and approval(s) shall be deemed satisfactory if issued or granted in form and substance as requested, or if not in form and substance substantially as requested, then if issued in a manner acceptable to Pipeline and such authorization(s) and approval(s), as issued, will not have a material adverse effect on Customer. Customer shall notify Pipeline in writing not later than fifteen (15) days after the issuance of the Commission certificate(s), authorization(s) and approval(s), including any order issued as a preliminary determination on non-environmental issues, contemplated in Paragraph 1 of this Precedent Agreement if such certificate(s), authorization(s) and approval(s) are not satisfactory to Customer. All other governmental authorizations, approvals, permits and/or exemptions, excluding Customer's Authorizations, must be issued in form and substance acceptable to Pipeline. All governmental approvals required by this Precedent Agreement, including Customer's Authorizations, must be duly granted by the Commission or other governmental agency or authority having jurisdiction, and must be final and no longer subject to rehearing or appeal; provided, however, Pipeline

may waive the requirement that such authorization(s) and approval(s), excluding Customer's Authorizations, be final and no longer subject to rehearing or appeal.

9. If Customer: (i) terminates this Precedent Agreement for any reason, other than pursuant to Paragraphs 7, 10, or 11 of this Precedent Agreement, on or after June 1, 2002; (ii) otherwise fails to perform, in whole or in part, its duties and obligations hereunder; or (iii) interferes with or obstructs the receipt by Pipeline of the authorizations and/or exemptions contemplated by this Precedent Agreement as requested by Pipeline and Pipeline does not receive the authorizations and/or exemptions in form and substance as requested by Pipeline or does not receive such authorizations and/or exemptions at all, then Customer shall, at the option and election of Pipeline, reimburse Pipeline for Customer's proportionate share (as prorated based on initial MDTQs among all customers taking actions described in this Paragraph 9) of Pipeline's costs incurred, accrued, allocated to, or for which Pipeline is contractually obligated to pay in conjunction with its efforts to satisfy its obligations under this Precedent Agreement ("Pre-service Costs"). Pre-service Costs will include, but will not be limited to, those expenditures and/or costs incurred, accrued, allocated to, or for which Pipeline is contractually obligated to pay associated with engineering, construction, materials and equipment, environmental, regulatory, and/or legal activities, and internal overhead and administration and any other costs related to the firm service contemplated in this Precedent Agreement incurred in furtherance of Pipeline's efforts to satisfy its obligations under this Precedent Agreement. Customer's liability for all costs subject to the above will not exceed \$500,000. Notwithstanding the foregoing, Customer acknowledges and agrees that Pipeline shall not be precluded

from seeking recovery for additional amounts related to breach of contract. Pipeline acknowledges and agrees that Customer shall not be precluded from seeking recovery for amounts related to breach of contract.

10. If the conditions precedent set forth in Paragraph 8 of this Precedent Agreement, excluding the condition precedent set forth in Paragraph 8 (A)(vii), have not been fully satisfied, or waived by Pipeline or Customer, by the earlier of the applicable dates specified therein or November 1, 2004, and this Precedent Agreement has not been terminated pursuant to Paragraphs 7, 11 or 12 of this Precedent Agreement, then either Pipeline or Customer may thereafter terminate this Precedent Agreement and the related Service Agreement by giving ninety (90) days prior written notice of its intention to terminate to the non-terminating Party; provided, however, if the conditions precedent are satisfied, or waived by Pipeline or Customer, as applicable, within such ninety (90) day notice period, then termination will not be effective.

11. In addition to the provisions of Paragraph 10 of this Precedent Agreement, Pipeline may terminate this Precedent Agreement at any time prior to satisfaction or waiver of all conditions precedent for the benefit of the Pipeline in Paragraph 8(A), upon fifteen (15) days prior written notice to the other Party hereto if Pipeline, in its sole discretion, determines for any reason that the Project contemplated herein is no longer economically viable or if substantially all of the other precedent agreements, service agreements or other contractual arrangements for the firm service to be made available by the Project are terminated, other than by reason of termination pursuant to Paragraph 12.

12. If this Precedent Agreement is not terminated pursuant to Paragraph 10 or 11 of this Precedent Agreement, then this Precedent Agreement will terminate by its express terms on the date of commencement of service under the Service Agreement, as provided for in Paragraph 5 of this Precedent Agreement, and thereafter Pipeline's and Customer's rights and obligations related to the transportation transaction contemplated herein shall be determined pursuant to the terms and conditions of such Service Agreement and Pipeline's FERC Gas Tariff, as effective from time to time.

13. Customer commits that it can and will, promptly upon request by Pipeline, satisfy one of the following creditworthiness requirements:

(A) Customer (or any entity that guarantees Customer's obligations under the Service Agreement) has an investment grade rating for its long-term senior unsecured debt from Moody's Investors Service, Inc. of Baa3 or higher or from Standard & Poor's of BBB- or higher. In the event that Customer meets the requirement contained in the immediately preceding sentence initially, but is later downgraded below such investment grade rating, Customer will be required to meet one of the requirements in Paragraph 13(B).

(B) At any time and from time to time that Customer does not meet the requirements set forth in the first sentence of Paragraph 13(A), Customer will be accepted as creditworthy by Pipeline if (i) Pipeline reasonably determines that, notwithstanding the absence of an acceptable credit rating, the financial position of Customer (or an entity that guarantees Customer's obligations under the Service Agreement) is acceptable to Pipeline and its lenders, or (ii) Customer provides an

irrevocable letter of credit or other security in such amounts and with such other terms and conditions as shall be acceptable to Pipeline and its lenders.

(C) This Paragraph 13 shall survive until commencement of service under the Service Agreement. Upon commencement of service under the Service Agreement as contemplated herein, Customer shall thereafter be required to meet the creditworthiness requirements as provided for in Pipeline's FERC Gas Tariff, as effective from time to time.

14. This Precedent Agreement may not be modified or amended unless the Parties execute written agreements to that effect.

15. (A) Any company that succeeds by purchase, merger, or consolidation of title to the properties, substantially as an entirety, of Pipeline or Customer, will be entitled to the rights and will be subject to the obligations of its predecessor in title under this Precedent Agreement. Otherwise, except with respect to Paragraph 15(B), neither Customer nor Pipeline may assign any of its rights or obligations under this Precedent Agreement without the prior written consent of the other Party hereto, which consent may not be unreasonably withheld; provided, however, that either Party may assign to an affiliate any of its rights or obligations under this Precedent Agreement without the consent of the other Party (so long as, in the case of Customer, any such assignment shall be expressly subject to the assignee satisfying the creditworthiness requirements set forth in Paragraph 13 herein).

(B) Customer acknowledges and agrees that Pipeline shall have the right to assign, mortgage, or pledge all or any of its rights, interests, and benefits under this Precedent Agreement and/or the Service Agreement to secure payment of any indebtedness incurred or to be incurred in connection with the development and construction of the Project facilities. Customer shall provide to the Project Lenders such assurances and undertakings as they may require in connection with such assignment, so long as the terms thereof are reasonable and not contrary to market standards for such assurances and undertakings and do not decrease Customer's rights or increase its obligations under the Precedent Agreement or the Service Agreement in any material manner.

16. Except as expressly provided for in this Precedent Agreement, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person not a Party hereto any rights, remedies or obligations under or by reason of this Precedent Agreement.

17. Each and every provision of this Precedent Agreement shall be considered as prepared through the joint efforts of the Parties and shall not be construed against either Party as a result of the preparation or drafting thereof. It is expressly agreed that no consideration shall be given or presumption made on the basis of who drafted this Precedent Agreement or any specific provision hereof.

18. The recitals and representations appearing first above are hereby incorporated in and made a part of this Precedent Agreement.

19. This Precedent Agreement shall be governed by, construed, interpreted, and performed in accordance with the laws of the Commonwealth of Massachusetts, without recourse to any laws governing the conflict of laws.

20. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this Precedent Agreement, or any notice which either Party desires to give to the other, must be in writing and will be considered duly delivered when mailed by registered or certified mail to the other Party's Post Office address set forth below:

Pipeline: 1284 Soldiers Field Road
Boston, Massachusetts 02135
Attn: Vice President, Marketing

Customer: AES Endeavor
141 Depot Road
Uncasville, CT 06382
Attn: Dan Rothaupt

or at such other address as either Party designates by written notice. Routine communications, including monthly statements, will be considered duly delivered when mailed by either registered, certified, or ordinary mail.

IN WITNESS WHEREOF, the Parties hereto have caused this precedent Agreement to be duly executed by their duly authorized officers as of the day and year first above written.

Islander East Pipeline Company, LLC,
by Duke Energy Islander East Pipeline Company, L.L.C.

By: [Signature]
Title: Sr. Vice President

AES Endeavor

By: [Signature]
Title: President

CAPACITY LEASE AND OPERATING AGREEMENT

by and between

ALGONQUIN GAS TRANSMISSION COMPANY

and

ISLANDER EAST PIPELINE COMPANY, L.L.C.

Dated June 15, 2001

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CAPACITY LEASE AND OPERATING AGREEMENT

THIS CAPACITY LEASE AND OPERATING AGREEMENT ("Agreement") is made and entered into this ___ day of June, 2001, by and between Algonquin Gas Transmission Company ("Algonquin"), a Delaware corporation, and Islander East Pipeline Company, L.L.C. ("Islander East"), a Delaware limited liability company. Islander East and Algonquin are sometimes referred to herein individually as a "Party" or collectively as the "Parties".

WITNESSETH:

WHEREAS, Algonquin owns and operates a lateral pipeline extending from milepost ("MP") 145.947 on its 26-inch mainline near Cheshire, Connecticut, referred to as its C-System (as such system may be modified from time to time, and inclusive of the expansion facilities constructed to implement this Agreement as described herein, the "C-System"), and proposes to construct an expansion of the capacity of the C-System by constructing a new compressor station near the head of the C-System (the "Cheshire Compressor Station"), upgrading certain segments of pipe and repairing, as necessary, other segments of pipe on the C-System in order to lease transportation capacity to Islander East under this Agreement (such expansion facilities, the "Project Facilities");

WHEREAS, Islander East proposes to construct a new pipeline system originating from Algonquin's C-System near North Haven, Connecticut, crossing Long Island Sound to Wading River, New York and extending to other points on Long Island ("Pipeline Facilities");

WHEREAS, subject to the terms and conditions of this Agreement, Islander East desires to lease from Algonquin, and Algonquin is willing to lease to Islander East, certain Algonquin firm natural gas pipeline transportation capacity to be made available by the Project; and

WHEREAS, Islander East and Algonquin desire to enter into this Agreement to set forth the Parties' respective rights and obligations regarding the lease of Algonquin's capacity to Islander East;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the Parties do hereby covenant and agree as follows:

ARTICLE I LEASE OF CAPACITY

Section 1.1 Project Facilities. Algonquin agrees to construct, own, operate, and maintain the C-System as necessary to provide the Lease Capacity to Islander East, subject to the further terms hereof.

Section 1.2 Lease Capacity. Commencing on the Commencement Date, Algonquin hereby leases to Islander East, and Islander East leases from Algonquin, natural gas transportation capacity in the C-System (the "Lease Capacity") equivalent to 285,000 Dth per

day, less fuel reimbursement quantities pursuant to Section 7.2, from the point of interconnection of the C-System and Algonquin's 26-inch mainline near Cheshire, Connecticut (mainline MP 145.947) (the "Receipt Point") to the interconnection of Algonquin's C-1 and C-1 L pipelines with Islander East's system at the custody transfer point between Algonquin and Islander East (MP 13.7 on the C-1 and C-1L pipelines) near North Haven, Connecticut, within or adjacent to Algonquin's North Haven meter station (the "Delivery Point"). Islander East's capacity rights in the Lease Capacity are solely as set forth in this Agreement.

Section 1.3 Ownership of C-System. That portion of the C-System which is subject to this Agreement is, and shall at all times remain, the property of Algonquin. Islander East shall have no right, title, or interest in such portion of the C-System, except as expressly set forth in this Agreement. Nothing contained herein shall be construed to permit Islander East to construct, or cause to be constructed, any modification or addition to, or any expansion of, the C-System, including the Project Facilities. Islander East expressly agrees that Islander East's rights to the Lease Capacity and the timing of such quantities being available to Islander East are solely as set forth in this Agreement. Subject to Islander East's rights as set forth in this Agreement, Algonquin shall have the right to utilize for secondary firm or interruptible service any capacity in the C-System that is not used by Islander East on a firm or interruptible basis and to further expand or modify the C-System. Upon termination of this Agreement, the Lease Capacity shall revert to Algonquin.

Section 1.4 Rights to Lease Capacity. Subject to the provisions of this Agreement, Islander East shall have the right to use and enjoy the Lease Capacity on a firm basis, which means that Algonquin may reduce the availability of Lease Capacity for reasons of Force Majeure, scheduled and unscheduled maintenance and repair, construction of facilities, and other actions undertaken by Algonquin in accordance with the standard of care set forth in Section 2.2.

Section 1.5 Additional Capacity. Algonquin agrees that, in the event that Islander East requires additional capacity on the C-System from the Receipt Point to the Delivery Point in order to provide additional transportation service for others, Algonquin shall negotiate in good faith with Islander East with respect to the construction, operation and maintenance of additional facilities to expand the Lease Capacity.

Section 1.6 Operating Lease. The Parties agree that it is the understanding and intention of the Parties that this Agreement is to be classified as an operating lease agreement pursuant to the FERC Uniform System of Accounts. To the extent that by law or regulation, this Agreement cannot be classified as an operating lease agreement, the Parties agree to negotiate in good faith to effect any such changes to this Agreement necessary to classify this Agreement as an operating lease agreement.

ARTICLE II OPERATION AND MAINTENANCE OF PROJECT FACILITIES

Section 2.1 General. Algonquin shall operate and maintain the Project Facilities in accordance with the requirements of any federal, state or other governmental agency having jurisdiction and in accordance with sound and prudent natural gas pipeline industry practice,

including managerial and pre-operational training and start-up activities that commence prior to completion of the Project Facilities. Algonquin shall have the right to utilize services of third parties, whether affiliated with Algonquin or otherwise, in connection with the fulfillment of its obligations under this Agreement.

Section 2.2 Standard of Care. Algonquin shall perform the operation and maintenance obligations specified by this Agreement in a good and workmanlike manner in accordance with industry standards followed by reasonable and prudent operators of natural gas pipeline facilities of like nature and character. Without prejudice to the covenant set forth in this Section 2.2, with respect to Algonquin's operations and maintenance obligations: (a) there are no warranties, express or implied; (b) there is no warranty of merchantability or fitness for a particular purpose; and (c) any and all implied warranties are hereby disclaimed.

Section 2.3 Operations and Maintenance of C-System. Algonquin shall perform, or cause to be performed, routine operation and maintenance services, which shall include, but not necessarily be limited to, the furnishing of all materials, equipment, services, supplies and labor necessary for the routine operation, inspection, surveillance, monitoring, maintenance and repair of the C-System.

Section 2.4 Special Maintenance and Capital Additions. Algonquin shall perform, or cause to be performed, special maintenance services and capital additions, which shall include, but not necessarily be limited to, the furnishing of all materials, equipment, services, supplies and labor necessary for all major equipment overhaul and replacement related to the C-System.

Section 2.5 Emergency Operations and Maintenance. Algonquin shall perform, or cause to be performed, emergency operation and maintenance services, which shall include, but not necessarily be limited to, those services performed in case of explosion, fire, storm, sudden emergencies or any unscheduled major interruption of the operation of the C-System.

Section 2.6 Operation and Maintenance. Algonquin shall have the sole right and discretion to determine the timing and performance of the operation and maintenance activities set forth in this Article II. To the extent any such operation and maintenance activities will result in the Lease Capacity being reduced, either in whole or in part, Algonquin shall notify Islander East at least 15 days prior to the commencement of such operation and maintenance activities, unless such activities are to be performed on an emergency basis, in which case Algonquin shall notify Islander East as soon as reasonably practicable.

Section 2.7 Reduction of Lease Capacity. To the extent that capacity in the C-System is reduced as provided under Section 1.4, such reduction shall be shared on a pro rata basis between Algonquin and Islander East based on the percentage obtained by dividing the Lease Capacity quantity by Algonquin's total daily design capacity between the Receipt Point and the Delivery Point, as notified by Algonquin from time to time.

ARTICLE III OPERATING PROCEDURES FOR LEASED CAPACITY

Section 3.1 Scheduling. In order for Algonquin and Islander East to coordinate the operation of their respective natural gas pipeline systems, Islander East shall submit a

scheduling notice to Algonquin in accordance with Algonquin's FERC Gas Tariff, Fourth Revised Volume No. 1, or any succeeding Algonquin tariff in effect ("Algonquin Tariff"), using Gas Industry Standard Board timelines as implemented in the Algonquin Tariff. For purposes of this Agreement, "Gas Day" shall be defined as that term is defined in the Algonquin Tariff, provided, however, that in the event that the Federal Energy Regulatory Commission or its successor ("Commission" or "FERC") adopts and/or approves a uniform definition of Gas Day applicable to all pipelines subject to its jurisdiction that is different from the definition set forth herein, the Parties agree that the definition set forth herein as Gas Day will be modified to conform with the uniform standard adopted and/or approved by the Commission. If Islander East fails to submit a scheduling notice with respect to any Gas Day, the scheduled amount that was in effect for the preceding Gas Day shall be the scheduled amount for the subject Gas Day. Algonquin shall not be obligated to deliver a quantity of gas at the Delivery Point, regardless of any daily schedule notice by Islander East, that exceeds the quantity of gas actually received for Islander East's account at the Receipt Point, less fuel reimbursement quantities.

Section 3.2 Changes to Scheduling. Islander East may request intraday changes to its scheduled utilization of its capacity rights, and provided that Algonquin can confirm the receipt of such gas quantities into the Lease Capacity and redelivery of such gas quantities out of the Lease Capacity in accordance with prudent natural gas pipeline operating practices, such scheduled utilization changes shall be effective on a prospective basis.

Section 3.3 Communications. All communications between the Parties pursuant to this Article III shall be by facsimile or other electronic means.

Section 3.4 Quality of Gas. All natural gas quantities tendered by Islander East into the Lease Capacity and all natural gas quantities delivered by Algonquin out of the Lease Capacity to Islander East shall conform with the natural gas quality specifications set forth in Section 4 of the General Terms and Conditions of the Algonquin Tariff, and such provisions are hereby incorporated by reference and made a part hereof as if set forth herein in their entirety.

Section 3.5 Balancing Agreements; Imbalances. The Parties agree that, commencing on the Commencement Date and continuing throughout the term of this Agreement, operational balancing agreements shall be maintained for the Delivery Point. In the event that the Parties fail to maintain such a balancing agreement in effect, the Parties agree that any operational imbalance occurring on any day will be corrected by allocating gas quantities delivered into or out of the Lease Capacity on the next subsequent day as necessary to correct such operational imbalance. Upon the termination of this Agreement, any remaining operational imbalance attributable to this Agreement shall be resolved pursuant to the effective operational balancing agreement; provided, however, that if no such agreement is in effect, then this Agreement shall survive termination for the purpose of correcting such operational imbalances. Algonquin shall also have the right at any time to take actions of whatever nature may be required (including suspension or reduction of service to Islander East) to correct any natural gas transportation imbalances created by Islander East which impair or threaten the operational integrity of the C-System, including without limitation, maintenance of service to Islander East.

Section 3.6 Pressure. Gas shall be tendered by Islander East and received by Algonquin for Islander East at the Receipt Point at Algonquin's system operating pressure at such point from time to time. Algonquin shall deliver gas to Islander East out of the Lease Capacity at the Delivery Point at Algonquin's system operating pressure at such point from time to time, but in no event shall Algonquin be obligated to deliver gas at a pressure in excess of 450 psig during the term of this Agreement.

ARTICLE IV TITLE TO AND POSSESSION OF GAS AND RISK

Section 4.1 Control and Possession. For purposes of this Agreement, Islander East shall be deemed to be in control and possession of the gas prior to delivery of the gas for Islander East's account to Algonquin for transportation at the Receipt Point. Algonquin shall be deemed to be in control and possession of the gas following receipt of the gas from Islander East at the Receipt Point and prior to delivery of the gas for Islander East's account at the Delivery Point, after which Islander East shall be deemed to be in control and possession.

Section 4.2 Responsibility. Islander East shall have no responsibility with respect to any gas after it has been delivered to Algonquin at the Receipt Point on account of anything which may be done, happen or arise with respect to said gas, prior to the re-delivery of the gas, for Islander East's account at the Delivery Point. Algonquin shall have no responsibility with respect to said gas prior to its delivery to Algonquin at the Receipt Point, after its delivery for Islander East's account at the Delivery Point, or on account of anything which may be done, happen or arise with respect to said gas prior to such receipt or after such delivery.

Section 4.3 Commingling of Gas. Subject to the obligation to redeliver at the Delivery Point the amount received at the Receipt Point, Algonquin shall have the right to commingle such gas with other gas and to re-deliver other molecules of gas at the Delivery Point.

ARTICLE V MEASUREMENT AND TESTS

Section 5.1 Measurement Equipment and Principles of Measurement. Algonquin shall install measuring equipment at the Delivery Point. The measurement and testing of quantities of gas transported through the Lease Capacity shall be conducted in accordance with the Algonquin Tariff, using measurement equipment installed and tested in accordance with the Algonquin Tariff.

ARTICLE VI TERM OF AGREEMENT; TERMINATION

Section 6.1 Commencement Date. The "Commencement Date" shall mean the later to occur of: (a) November 1, 2003, (b) the date on which Algonquin has completed and placed the Project Facilities into active gas service, as notified by Algonquin to Islander East not less than five days prior to the date on which such facilities are to be placed into service; or (c) the date on which Islander East has completed and placed the Pipeline Facilities into active gas

service, as notified by Islander East to Algonquin, not less than five days prior to the date on which such facilities are to be placed into service.

Section 6.2 Effectiveness. This Agreement shall be effective as of the date first above written, and unless earlier terminated as provided in this Agreement, shall remain in effect thereafter for an initial term until and including the later of (i) October 31, 2023 or (ii) the last day of the month in which the twentieth (20th) anniversary of the Commencement Date, occurs (the "Primary Term"), and shall remain in effect thereafter for successive periods of one year each, unless terminated by Islander East upon written notice given to Algonquin no less than two years prior to the expiration of the Primary Term or two years prior to the expiration of any succeeding one-year period thereafter.

Section 6.3 Consequences of Termination. Upon termination of this Agreement, whether in whole or in part, pursuant to the terms of this Agreement, the Parties shall continue to be obligated to make any and all payments due to the other which have accrued prior to and including the effective date of such termination, including any obligations pursuant to Article VII of this Agreement.

ARTICLE VII CHARGES AND PAYMENT

Section 7.1 Monthly Lease Charges. Commencing on the Commencement Date and each month thereafter during the term of this Agreement, Islander East shall pay to Algonquin a fixed monthly amount of \$334,135 and a monthly operating and maintenance ("O&M") charge in the amount of \$32,307, which excludes fuel and property taxes. Such O&M charge will be adjusted annually, based on the Gross National Product Implicit Price Deflator.

Section 7.2 Fuel Reimbursement. Algonquin shall deduct from the quantities delivered by Islander East into the Lease Capacity at the Receipt Point the quantity of natural gas consumed in operations and attributable to Islander East's use of the Lease Capacity pursuant to this Agreement, which the Parties stipulate shall be equal to 0.63 percent (0.63 %) of all gas quantities delivered by Islander East into the Lease Capacity at the Receipt Point. The Parties agree that this percentage shall be adjusted from time to time as deemed appropriate to reflect actual fuel consumption consumed in operations and attributable to Islander East's use of the Lease Capacity under this Agreement.

Section 7.3 Property Taxes. Algonquin shall be responsible for paying all property-related taxes, including but not limited to state and local ad valorem taxes, levied on the C-System (the "Property Taxes"), and Algonquin shall be entitled to recover Islander East's share of any and all Property Taxes. Beginning on the Commencement Date, Islander East shall pay, in accordance with the invoicing provisions hereof, its share of any Property Taxes, such share to be calculated as the amount of any property tax paid by Algonquin for its C-System facilities, multiplied by the percentage obtained by dividing the Lease Capacity quantity by Algonquin's total daily design capacity for the C-System facilities (initially 74%), as notified by Algonquin from time to time.

Section 7.4 Invoices and Payment. Algonquin shall tender an invoice in U.S. Dollars to Islander East on or before the tenth day of each month for the applicable monthly charges for the immediately preceding month and Islander East's share of any Property Taxes. Islander East shall pay Algonquin the full amount of such invoice by electronic transfer of federal funds no later than the twentieth day of the month in which the invoice is tendered by Algonquin, except when such day is not a Business Day, in which case payment is due on the preceding Business Day (the "Due Date"). For purposes of this Agreement, a "Business Day" shall mean Monday through Friday, excluding Federal Banking Holidays for transactions in the United States. Payment shall be deemed to have been made on the date when such payment is transferred by Islander East to a bank account designated by Algonquin. Each invoice shall be paid without any counterclaim, withholding or deduction whatsoever except for deductions authorized by Section 7.5 herein.

Section 7.5 Disputed Amounts. If Islander East in good faith disputes the accuracy of any monthly invoice, in full or in part, Islander East shall pay the total invoiced amount in full (including the disputed amount) by the due date and notify Algonquin of the amount disputed and, in reasonable detail, the grounds therefore within ten days from receipt of such invoice. Algonquin shall carry out verification of the invoice and shall reflect any adjustment required on the next monthly invoice following completion of Algonquin's verification. In the event that a disputed amount remains unresolved as of the due date for payment of the next invoice due following Islander East's notice to Algonquin, then Islander East may withhold the disputed amount from the next payment or if the amount of such payment is less than the disputed amount, the next succeeding payments to Algonquin until the issue is resolved pursuant to Article XIII hereof; provided that, following the resolution of the issue, Islander East shall pay interest, using the FERC-approved interest rate, as set forth in the Commission's regulations, 18 C.F.R. § 154.501, as modified from time to time ("FERC-approved interest rate"), on the disputed portion of an invoice for which Islander East has withheld payment and which ultimately is found due to Algonquin. To the extent a billing error results in a credit to Islander East's invoice, Algonquin shall adjust the invoice to reflect interest, using the FERC-approved interest rate, on the credited amount.

Section 7.6 Failure to Pay. If Islander East fails to make timely payment of any amount invoiced, Islander East shall pay interest thereon based on the number of days lapsed from the day following the date when payment was due to and including the date when payment is made. Interest on the amount due in equivalent U.S. Dollars as of the date payment was due shall be calculated using the FERC-approved interest rate. Interest shall be calculated using simple interest calculations on the basis of a 365-day year and shall be reflected on the monthly invoice following receipt of the late payment.

Section 7.7 No Regulatory Relief. Neither Algonquin nor Islander East shall file with the Commission to alter the provisions of this Article VII or the respective rights and obligations of the Parties pursuant to such provisions.

ARTICLE VIII FORCE MAJEURE

Section 8.1 Force Majeure. As used herein, “Force Majeure” shall have the meaning set forth in Section 16 of the General Terms of Conditions of the Algonquin Tariff, and such provisions are hereby incorporated by reference and made a part hereof as if set forth herein in their entirety.

Section 8.2 Burden of Proof. In the event that the Parties are unable in good faith to agree that a Force Majeure has occurred, or the effect thereof, the Parties shall submit the dispute to resolution pursuant to Article XIII hereof; provided that the burden of proof as to whether a Force Majeure has occurred shall be upon the Party claiming a Force Majeure.

Section 8.3 Notification. If performance of the obligations of either Party under this Agreement shall be wholly or partially prevented due to a Force Majeure, the Party affected by the Force Majeure shall give notice to the other Party of the Force Majeure as soon as reasonably practicable, but not later than 72 hours after the time such Party knew of the commencement of the Force Majeure. Notwithstanding the above, if the Force Majeure results in a breakdown of a communications rendering it not reasonably practicable to give notice within the applicable time limit specified herein, then the Party affected by the Force Majeure shall give such notice as soon as reasonably practicable after the reinstatement of communications, but not later than 24 hours after such reinstatement.

Section 8.4 Cure. The Party affected by a Force Majeure shall (a) exercise diligent efforts to cure or overcome the effects of a Force Majeure and (b) give notice to the other as soon as practicable after the Force Majeure ceases or has been overcome.

Section 8.5 Excused Performance. Subject to Section 8.6, a Party affected by a Force Majeure shall be excused from its performance under this Agreement to the extent it is rendered unable to perform by such Force Majeure for so long as the Force Majeure or its effects continue; provided that the occurrence of a Force Majeure shall not excuse either Party from fulfilling any obligation under this Agreement to the extent performance thereof is not affected by a Force Majeure.

Section 8.6 Exception. A Force Majeure affecting the performance hereunder by either Party shall not relieve such Party of liability to the extent of its concurring negligence or willful misconduct in causing such Force Majeure or to the extent of its failure to exercise due diligence to remedy the Force Majeure and to remove the cause or contingencies affecting such performance in an adequate manner and with all reasonable dispatch, nor shall such causes or contingencies affecting such performance relieve such Party from its obligations to make payments as determined hereunder, including the obligation of Islander East to pay all amounts owing hereunder notwithstanding any reduction in the availability of the Lease Capacity due to an event of Force Majeure (but subject to Section 8.7). In the event that Algonquin reduces the

availability of the Lease Capacity for reasons of Force Majeure for a period in excess of ten consecutive days, the Parties agree that Islander East shall receive a credit to its monthly invoice equal to the daily equivalent of the monthly lease payment obligations, multiplied by a fraction, the numerator of which is the quantity of gas on any day requested by Islander East in good faith to be delivered and not delivered by Algonquin for reasons of Force Majeure, and the denominator of which is the Lease Capacity, for each day that the Force Majeure event extends beyond a period of ten consecutive days, and Algonquin shall adjust Islander East's invoice, as appropriate.

Section 8.7 Failure to Repair or Rebuild Facilities. In the event of a Force Majeure which renders the Project Facilities inoperable, and such Project Facilities would continue to remain inoperable unless repaired and/or rebuilt, and such repair and/or rebuild of Project Facilities similar to the original Project Facilities is determined by Algonquin to be economically unfeasible, then Algonquin shall notify Islander East of Algonquin's decision not to repair or rebuild such Project Facilities as soon as reasonably practicable, but not later than 60 days after the occurrence of such Force Majeure. Absent a written agreement between Algonquin and Islander East regarding the terms and conditions under which Algonquin would repair such Project Facilities and/or rebuild facilities similar to such Project Facilities, Islander East may terminate this Agreement upon delivery of 90 days' prior written notice to Algonquin. As of the effective date of such termination, the Parties shall have no further obligations or liability to each other, except for such liabilities incurred prior to the effective date of the termination, or pursuant to the provisions hereof which expressly survive the termination of this Agreement.

ARTICLE IX CONDITIONS PRECEDENT

Section 9.1 Conditions Precedent. The Parties hereto expressly agree that the Lease Agreement is subject to termination pursuant to this Article IX if the following conditions precedent are not satisfied or waived as set forth below:

(a) Algonquin's receipt and acceptance, on terms and conditions acceptable to Algonquin, of all necessary governmental and regulatory authorizations, including Commission authorizations, but excluding those authorizations which are typically obtained only during construction or immediately prior to placing new facilities into service, necessary to implement this Agreement, including the authorizations necessary for Algonquin to construct, own, operate, and maintain the Project Facilities and for Algonquin to perform its obligations pursuant to this Agreement;

(b) Algonquin's completion of construction of the Project Facilities and placing such facilities into service;

(c) Islander East's receipt and acceptance on terms and conditions acceptable to Islander East, of all necessary governmental and regulatory authorizations, including Commission authorizations, but excluding those authorizations which are typically obtained only during construction or immediately prior to placing new facilities into service, necessary to implement this Agreement, including the authorizations necessary for Islander

East to construct, own, operate and maintain the Pipeline Facilities and for Islander East to perform its obligations pursuant to this Agreement;

(d) Islander East's completion of construction of the Pipeline Facilities and placing such facilities into service.

Section 9.2 Authorizations. All of the governmental permits, certificates, exemptions and other authorizations ("Authorizations") required in this Article IX must be issued in form and substance satisfactory to the requesting Party, in its sole discretion. The requesting party shall notify the other Party in writing not later than ten (10) days after the issuance of the Authorizations, including any orders issued as a preliminary determination on non-environmental issues, contemplated in this Article IX, if such Authorizations are not satisfactory to the requesting party. For purposes of this Agreement, Authorizations shall be deemed satisfactory if issued or granted in form and substance as requested. All Authorizations required by this Agreement must be duly granted by the Commission, or other governmental agency or authority having valid jurisdiction, and must be final and nonappealable; but with respect to Authorizations from the Commission, each Party may waive the condition that its own Authorizations contemplated in Section 9.1(a) and Section 9.1(c) be final and nonappealable.

Section 9.3 Cooperation with Respect to Permits and Authorizations. The Parties shall diligently cooperate with each other in the prompt preparation and filing and expeditious prosecution of all applications with the Commission for all necessary authorizations to implement this Agreement. The Parties shall proceed with due diligence to obtain all necessary governmental and regulatory authorizations referenced in this Article IX. After acceptance by Algonquin of such governmental and/or regulatory authorizations contemplated in this Article IX and the commencement of construction of the Project Facilities, Algonquin shall proceed with due diligence to complete such facilities and to make available the Lease Capacity pursuant to this Agreement. After acceptance by Islander East of such governmental and/or regulatory authorizations contemplated in this Article IX and the commencement of construction of the Pipeline Facilities, Islander East shall proceed with due diligence to complete such facilities and to perform its obligations pursuant to this Agreement.

Section 9.4 Failure to Satisfy Conditions Precedent. In the event that the condition precedent in Section 9.1(a) of this Agreement has not been satisfied or waived by Algonquin by September 1, 2002 or the condition precedent in 9.1(b) of this Agreement has not been satisfied or waived by Algonquin by November 1, 2004, then either Party shall have the right to terminate this Agreement upon thirty (30) days prior written notice to the other; provided, however, if such condition is thereafter satisfied or waived by Algonquin within such notice period then such termination shall not be effective.

(a) In the event that the condition precedent in Section 9.1(c) of this Agreement has not been satisfied or waived by Islander East by September 1, 2002, or the condition precedent in Section 9.1(d) has not been satisfied or waived by Islander East, by November 1, 2004, then either Party shall have the right to terminate this Agreement at any time thereafter upon thirty (30) days prior written notice to the other Party provided however, if

such condition is thereafter satisfied or waived by Islander East, within such notice period then such termination shall not be effective.

(b) Upon termination of this Lease Agreement pursuant to these conditions precedent, the Parties shall have no further liability to each other with respect to this Agreement except that in the event Islander East terminates this Lease Agreement pursuant to Sections 9.4(a) or 9.4(b), then Islander East shall reimburse Algonquin for all costs incurred, accrued, allocated to, or for which Algonquin is contractually obligated to pay in conjunction with Algonquin's efforts to satisfy its obligations under this Lease Agreement. Islander East shall submit such payment to Algonquin within twenty days of the receipt of Algonquin's invoice.

ARTICLE X INDEMNIFICATION

Section 10.1 Indemnification by Islander East. Islander East shall fully indemnify, hold harmless and defend Algonquin and its directors, officers, agents, employees, representatives, consultants, successors and assigns (the "Algonquin Indemnified Parties"), from and against any and all losses, costs, damages, injuries, liabilities, claims, demands, penalties, interest and causes of action, including without limitation reasonable legal fees (collectively, the "Damages"), directly or indirectly arising out of or resulting from any damage to or destruction of property of, or death of or bodily injury to, third parties (including employees of Islander East and subcontractors of Islander East); all to the extent caused or contributed to by (w) any breach by Islander East of the terms and provisions of this Agreement, (x) the fault, negligence, or willful misconduct of Islander East in connection with its actions, omissions or the fulfillment of its obligations in connection with this Agreement, or (y) Islander East's possession of the gas prior to receipt into or after delivery out of the Lease Capacity.

Section 10.2 Indemnification by Algonquin. Algonquin shall fully indemnify, hold harmless and defend Islander East and Islander East's directors, officers, agents, employees, representatives, consultants, successors and assigns (the "Islander East Indemnified Parties"), from and against any and all Damages, directly or indirectly arising out of or resulting from any damage to or destruction of property of, or death of or bodily injury to, third parties (including employees of Algonquin and subcontractors of Algonquin); all to the extent caused or contributed to by (w) any breach by Algonquin of the terms and provisions of this Agreement, (x) the fault, negligence, or willful misconduct of Algonquin in connection with its actions, omissions or the fulfillment of its obligations in connection with this Agreement, or (y) Algonquin's possession of the gas after receipt into or prior to delivery out of the Lease Capacity.

Section 10.3 Indemnitor Responsibilities. Promptly after receipt by an Algonquin Indemnified Party or Islander East Indemnified Party, as the case may be (collectively, the "Indemnified Parties"), of any claim or notice of the commencement of any action, administrative or legal proceeding, or investigation as to which the indemnity provided for in Sections 10.1 or 10.2 hereof may apply, the Indemnified Party shall notify Islander East or Algonquin, as the case may be (in such capacity, the "Indemnitor"), in writing of such fact. The Indemnitor shall assume on behalf of the Indemnified Party and conduct with due diligence

and in good faith the defense thereof with counsel reasonably satisfactory to the Indemnified Party; provided, that the Indemnified Party shall have the right to be represented therein by advisory counsel of its own selection and at its own expense; and provided further, that if the defendants in any such action include both the Indemnitor and the Indemnified Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnitor, the Indemnified Party shall have the right to select separate counsel to participate in the defense of such action on its own behalf and at the Indemnitor's expense.

Section 10.4 Indemnified Party Rights. If any claim, action, proceeding or investigation arises as to which the indemnity provided for in Sections 10.1 or 10.2 hereof may apply, and the applicable Indemnitor fails to assume the defense of such claim, action, proceeding or investigation, then the Indemnified Party may at such Indemnitor's expense contest such claim, or, with the prior written consent of such Indemnitor, settle such claim; provided, that no such contest need be made and settlement or full payment of any such claim, action, proceeding or investigation may be made without such Indemnitor's consent (with such Indemnitor remaining obligated to indemnify the Indemnified Party under Sections 10.1 and 10.2) if the Indemnified Party reasonably believes, after consultation with counsel, such claim is meritorious. All costs and expenses incurred by a Islander East Indemnified Party or an Algonquin Indemnified Party, as the case may be, in connection with any such contest, settlement or payment shall be deducted from any amounts payable to the Indemnitor pursuant to this Agreement with all such costs in excess of the amount so deducted to be reimbursed by the Indemnitor promptly following the Indemnified Party's demand therefore.

Section 10.5 Contributory Obligations. Notwithstanding anything to the contrary in this Agreement, (i) the Indemnitor shall only indemnify the Indemnified Party for damages to the extent not covered by insurance, and (ii) the Indemnitor's indemnification obligations shall be subject to and reduced (or eliminated, as the case may be) to the extent any court of competent jurisdiction or arbitral panel convened pursuant to Article XIII hereof determines that an Indemnified Party was partially or wholly at fault due to its negligence or other wrongful act or to the extent that strict liability is imposed upon an Indemnified Party as a matter of law.

(a) In the event that both Algonquin and Islander East are adjudicated negligent or otherwise at fault or strictly liable without fault with respect to damage or injuries sustained by the third party claimant, the contractual obligation of indemnification under this Agreement shall continue but Algonquin and Islander East each shall indemnify the other only for the percentage of responsibility for the damage or injuries adjudicated to be attributed to it. In such a situation, it is intended that, to the extent either Algonquin or Islander East pays such third party claimant for its costs, losses, liabilities, expenses and/or judgments attributed to the percentage of negligence, fault or liability of the other, these obligations of indemnification shall function as a contractual arrangement of contribution. This contractual arrangement of contribution shall survive settlement of the underlying third party claim and shall apply to voluntary settlements made by either Algonquin or Islander East with the third party.

Section 10.6 Survival. The indemnity obligations set forth in this Article X shall survive the termination of this Agreement.

ARTICLE XI
REPRESENTATIONS AND WARRANTIES

Section 11.1 General. Each Party represents and warrants to the other Party that, as of the date of this Agreement:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business;
- (b) the execution, delivery and performance of the Agreement and the performance of its obligations hereunder are within its power, have been duly authorized by all necessary action and do not violate its governing documents or any law or material agreement applicable to it;
- (c) the Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses;
- (d) there are no Bankruptcy Proceedings (as defined herein) pending or contemplated by it or to its knowledge, threatened against it; and
- (e) there are no pending or, to its knowledge, threatened, legal proceedings that materially adversely affect its ability to perform under the Agreement.

ARTICLE XII
EVENTS OF DEFAULT

Section 12.1 Events of Default. Any rights of a non-defaulting Party under this Article XII shall be in addition to such Party's other rights under this Agreement and at law to the extent not waived hereunder. An "Event of Default" shall be deemed to have occurred upon the occurrence of any of the following:

- (a) The failure of Islander East, unless a notice of dispute has been made under Article XIII hereof, to make, when due, any payment required pursuant to this Agreement which failure is not remedied within fifteen (15) Business Days after written notice thereof;
- (b) Any representation or warranty made by a Party under this Agreement is false or misleading in any material respect when made;
- (c) The failure by a Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default under this Section 12.1), which failure is not remedied within ten (10) Business Days after written notice thereof;
- (d) Any Party (i) makes an assignment or general arrangement for the benefit of creditors, (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, reorganization, debt restructuring, insolvency, liquidation or other law for the protection of debtors or creditors (or

analogous proceedings in the jurisdiction of such Party), (iii) has such a petition filed against it and such petition is not withdrawn or dismissed within thirty (30) Days after such filing, (iv) otherwise becomes bankrupt or insolvent (howsoever evidenced), (v) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, (vi) has any order for relief entered against it, or (vii) is generally unable to pay its debts as they become due (all of the foregoing, "Bankruptcy Proceedings").

Section 12.2 Effect of Event of Default. Upon the occurrence and during the continuation of an Event of Default on the part of one Party beyond cure periods set forth in Section 12.1, the non-defaulting Party may, in its sole discretion,

(a) upon providing 10 days' prior written notice to the defaulting Party, suspend performance of its obligations without suspending performance of the defaulting Party's obligations; or

(b) upon providing thirty days' prior written notice to the defaulting Party, terminate the Agreement;

provided, however, that if an Event of Default occurs pursuant to Subsection 12.1(d), the Agreement shall automatically be terminated without any further action.

ARTICLE XIII DISPUTE RESOLUTION

Section 13.1 Exclusive Means. Any and all differences, controversies, and claims arising out of or in connection with this Agreement (each a "Dispute") shall be resolved solely as provided in this Article XIII. This Agreement is and shall be a consent by each of the Parties hereto to arbitration as provided herein.

Section 13.2 Negotiation. The Parties agree that they shall first seek to resolve any Dispute through negotiation. Either Party may provide the other Party with notice and a request for negotiation to resolve a Dispute. Within seven days after delivery of such notice and request, senior executives of each of the Parties shall meet to negotiate a resolution of such Dispute for a period not to exceed 20 days. An agreement resolving such Dispute shall be in writing and shall comprise an undertaking integral to this Agreement.

Section 13.3 Arbitration. If the Parties fail to reach a negotiated resolution of a Dispute as provided in Section 13.2, then the Dispute shall be finally settled by arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association then in effect, which the Parties represent to know and accept.

Section 13.4 Place of Arbitration. The place of arbitration shall be Houston, Texas.

Section 13.5 Awards. The arbitrators shall award costs, including attorneys' fees, and pre-award and post-award interest at applicable rates set and published according to the applicable governing law set forth herein. Any monetary award made in the arbitration shall be

made and payable in United States Dollars. Fees and expenses associated with the enforcement of an arbitral award shall be paid by the Party against whom such enforcement is obtained.

Section 13.6 Continuing Obligations. The Parties hereto shall use best efforts to implement the terms of this Agreement, notwithstanding the pendency of any Dispute.

Section 13.7 Binding Awards. Any arbitral awards made hereunder shall be final, binding, and enforceable according to their terms as from the date the awards are made. The Parties hereby undertake to carry out all awards without delay and waive their right to any form of appeal or recourse to a court of law or other judicial authority, insofar as any such waiver may validly be made. A monetary award, if any, shall be paid promptly and, except as otherwise provided herein, shall be free of any tax, deduction, or offset.

Section 13.8 Enforcement of Awards. Any arbitral awards made hereunder may be entered and enforced by a court of competent jurisdiction in the same manner as a judgment of any such court.

ARTICLE XIV MISCELLANEOUS

Section 14.1 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT RECOURSE TO THE LAW REGARDING CONFLICTS OF LAWS. Notwithstanding the foregoing, this Agreement and obligations of Algonquin and Islander East hereunder are subject to all applicable laws, rules, orders and regulations of governmental authorities having jurisdiction and, in the event of conflict, such laws, rules, orders and regulations of governmental authorities having jurisdiction shall control.

Section 14.2 No Waiver. No waiver by a Party of any default by the other Party in the performance of any Provision, condition or requirement herein shall be deemed to be a waiver of, or in any manner release the other Party from, performance of any other provision, condition or requirement herein, nor shall such waiver be deemed to be a waiver of, or in any manner a release of, the defaulting Party from future performance of the same provision, condition or requirement. Any delay or omission of any Party to exercise any right hereunder shall not impair the exercise of any such right or any like right accruing to it thereafter.

Section 14.3 Exclusive Obligations. The obligations of the Parties expressed in this Agreement are the sole and exclusive obligations of the Parties with respect to the subject matter of this Agreement. Neither Algonquin nor Islander East accepts or has imposed upon it, by virtue of this Agreement or otherwise, any implied obligations or covenants with respect to the subject matter of this Agreement.