

AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS

THIS AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS (this “Agreement”) is made as of this ____ day of _____, 20__ (the “Effective Date”), between **NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID**, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 300 Erie Boulevard West, Syracuse, New York 13202 (“Seller”), and the **COUNTY OF ALBANY**, a municipal corporation organized and existing under the laws of the State of New York with its principal place of business at 112 State Street, Room 1200, Albany, NY 12207 (“Buyer”). Buyer and Seller are sometimes herein referred to individually as a “Party” and collectively as the “Parties.”

WITNESSETH:

WHEREAS, Seller owns, operates and maintains an electric transmission and distribution system, including certain street lights used to provide lighting service under bill account number 13752-95105, 16350-80108, 80752-92105, and 97752-93107 to Buyer within its municipal boundaries under Service Classification (“S.C.”) No. 2 of Seller’s Outdoor Lighting Tariff (defined below);

WHEREAS, Buyer desires to purchase the Street Lights (as defined below in Section 1) from Seller as provided in Section F.8 of S.C. No. 2 of Seller’s Outdoor Lighting Tariff (defined below), and Seller is willing to sell the Street Lights to Buyer.

NOW THEREFORE, in consideration of the commitments made herein and intending to be legally bound thereby, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions.** Capitalized terms shall have the meanings defined throughout this Agreement or as specified below in this Section 1.

“**Agreement**” means this Agreement for Purchase and Sale of Street Lights, together with the exhibits and schedules attached hereto, as the same may be amended from time to time.

“**Attachment Agreement**” means the License Agreement for Customer-Owned Street and Area Lighting Attachments to Utility Poles and Structures executed by Buyer and Seller and hereto as Exhibit A.

“**Bill of Sale**” means the Quit Claim Bill of Sale, substantially in the form of Exhibit B hereto, to be executed and delivered by the Parties at the Closing, to evidence the transfer by Seller to Buyer of Seller’s right, title and interest in and to the Street Lights.

“**Breaching Party**” has the meaning set forth in Section 17.1(e).

“**Business Day**” means any day other than Saturday, Sunday, and any day on which banking institutions in the State of New York are authorized by law or other governmental action to close.

“Buyer’s Required Approvals” means: (i) all required approvals of Buyer’s governing board to authorize Buyer (by an authorized representative) to enter into this Agreement, the Bill of Sale, the Attachment Agreement and the Service Agreement; and (ii) those other approvals, if any, listed on Exhibit C.

“Closing” has the meaning set forth in Section 6.1.

“Closing Date” has the meaning set forth in Section 6.1.

“Commercially Reasonable Efforts” means efforts which are designed to enable the performing Party, directly or indirectly, to satisfy a condition to, or otherwise assist in the consummation of, the transactions contemplated by this Agreement and which do not require the performing Party to expend any funds or assume any liabilities other than expenditures and liabilities which are customary and reasonable in nature and amount in the context of the transactions contemplated by this Agreement.

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

“Estimated Purchase Price” has the meanings set forth in Section 6.2.

“Excluded Assets” has the meaning set forth in Section 5.

“Final Purchase Price” has the meanings set forth in Section 6.2.

“Letter(s) of Credit” means an irrevocable, unconditional and nontransferable standby Letter of Credit, in the form attached hereto as Appendix S-1, which is issued by a major U.S. commercial bank or the U.S. branch office of a foreign bank with, in either case, a Credit Rating of at least: (a) “A-” by Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successors (“S&P”) and “A3” by Moody’s Investor Services Inc. or its successor (“Moody’s”), if such entity is rated by both S&P and Moody’s; or (b) “A” by S&P or “A2” by Moody’s, if such entity is rated by either S&P or Moody’s, but not both.

“Outside Date” has the meaning set forth in Section 17.1(b).

“Permitted Lien” means: (a) any lien for taxes not yet due or delinquent; (b) any lien for taxes being contested in good faith by appropriate proceedings and not in excess of \$100,000; (c) any lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet due or delinquent or which is being contested in good faith by Seller; (d) zoning, planning, and other similar governmental limitations and restrictions, all rights of any governmental authority to regulate any asset, and all matters of public record; and (e) any lien released prior to Closing.

“Purchase Price” has the meanings set forth in Section 6.2.

“Reconfiguration Work” means that work requested by Buyer and performed by Seller in order to continue to provide safe and reliable electric service to Buyer after the Street Lights have been acquired by Buyer.

“Seller’s Electricity Tariff” means Seller’s P.S.C. No. 220 – Electricity Tariff, as modified and in effect from time to time.

“Seller’s Outdoor Lighting Tariff” means Seller’s P.S.C. No. 214 – Outdoor Lighting Tariff, as modified and in effect from time to time.

“Seller’s Required Approvals” means: (a) approval of an authorized officer of Seller to sell the Street Lights; (b) pursuant to Section 70 of the New York State Public Service Law, approval of the sale of the Street Lights by operation of law or an order of the Commission approving the sale of the Street Lights pursuant to the terms of this Agreement; and (c) those other approvals, if any, listed on Exhibit D.

“Separation Work” means that work required to install electric disconnection equipment and identification labels complying with Seller’s standards associated with the Street Lights and also includes removal of Seller’s existing labeling from such facilities.

“Service Agreement” means that service agreement to be executed and delivered by Buyer to Seller at Closing providing for the supply of electricity to be used for such Street Lights under the applicable provisions of Rate Schedule S.C. No. 3 of Seller’s Outdoor Lighting Tariff (in the case of unmetered service) or Seller’s Electricity Tariff (in the case of metered service).

“Street Lights” means those certain street lights and related facilities owned solely by Seller and used to provide lighting service to Buyer under bill account number 13752-95105, 16350-80108, 80752-92105, and 97752-93107 located within Buyer’s geographical boundaries, used solely for street lighting purposes, and which consist of luminaires, lamps, brackets, associated wiring, convenience outlets, electrical connections and appurtenances, as described in Exhibit E, which description shall be revised under Exhibit E-1 in accordance with Section 2 below, and will not include Excluded Assets.

“Surety Bond(s)” means the form attached hereto as Appendix S-2, which shall be considered as security for the performance of all of the Buyer’s contractual obligations contained in this Agreement, issued by a major insurance carrier (“Surety”) with a credit rating of at least: (a) “B+” by A.M. Best & Company; or (b) “A-” by S&P.

“Transaction Costs” consist of transfer taxes and recording fees associated with the sale of the Street Lights.

“Transition Costs” consist of costs related to the Seller’s internal system inventory updates, billing data changes, and data updates associated with the sale of the Street Lights.

2. **Transfer of Street Lights.** Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Seller shall sell, assign, convey, transfer, and deliver to Buyer, and Buyer shall purchase, assume, acquire, and receive from Seller, all of Seller’s right, title, and interest in and to the Street Lights.

The Buyer understands and agrees that the list of the Street Lights on Exhibit E (“Preliminary Description of Street Lighting Assets”), provided by the Seller as of the Effective Date, is a

preliminary list of Street Lights which might not include all of the Street Lighting facilities that the Buyer is purchasing under this Agreement. The Buyer further understands and agrees that on the Closing Date, the Seller shall deliver to the Buyer a final list of Street Lights which shall be provided as Exhibit E-1 (“Final Closing Description of Street Lighting Assets”) under this Agreement. The Seller agrees to perform such task and deliver Exhibit E-1 to the Buyer on the Closing Date. The Parties agree that the Street Lights as listed on Exhibit E-1 will be the final description of the Street Light facilities provided by the Seller under this Agreement. Notwithstanding anything to the contrary in this Agreement, the Buyer maintains sole responsibility for the accuracy and completeness of the Street Lights listed in Exhibit E and Exhibit E-1.

After the Closing Date, the purchase of any street lights and related facilities (“Additional Facilities”) not included in Exhibit E and Exhibit E-1 shall be subject to an additional purchase price calculation. If, at such time, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller such Additional Facilities, Buyer shall pay to Seller an additional purchase price in consideration for the Additional Facilities.

3. **Demarcation of Ownership.** From and after Closing, Buyer shall own the Street Lights as follows:

3.1 The Parties acknowledge and agree that there may not be a physical ownership demarcation point to separate or identify ownership (post-Closing) of Buyer’s Street Lights from Seller’s electric distribution structures or systems. Accordingly, the Parties agree that the point of ownership demarcation shall be deemed to be the existing connection point where the applicable Street Light is energized from the electric distribution system (“Connection Point”). The Seller shall retain ownership of the electric distribution system up to and including the Connection Point. Buyer shall own the street lighting system from the Connection Point to the luminaire inclusive of the applicable Street Light.

3.2 The Buyer shall own Street Lights supplied from overhead conductors from the Connection Point at Seller’s secondary conductor to the street light and including the luminaires, lamps, brackets, and associated wiring, with Seller retaining ownership of the electrical distribution system up to that Connection Point; and

3.3 The Buyer shall own Street Lights supplied from underground conductors from the Connection Point at Seller’s secondary conductor to the underground conductor supplying such street light, including the foundation, standard, luminaires, lamps, brackets, and associated wiring, and conduits in which any underground conductors transferred to Buyer under this Agreement may be located.

3.4 To the extent there is any uncertainty or conflict with respect to the Connection Point, the Seller shall, in its sole discretion, define the Connection Point.

4 **Convenience Outlets.** After the Closing, the Customer shall own convenience outlets located on Street Light they purchase. Customer's usage of such convenience outlets shall be billed as an unmetered estimate in accordance with the terms of Seller’s Electricity Tariff. Convenience outlets located on distribution poles or any poles or street lights not purchased by Customer shall continue to be owned by the Company. With regard to such convenience outlets, customer shall

continue to pay an annual facility charge pursuant to Seller's Outdoor Lighting Tariff, and its usage of such outlets shall be billed as an unmetered estimate in accordance with the terms of Seller's Electricity Tariff.

5 **Excluded Assets.** Seller is not assigning, conveying, transferring, or delivering to Buyer and Buyer is not purchasing, assuming, acquiring or receiving from Seller any of Seller's right, title, and interest in and to the following, all of which are being retained by Seller following the Closing (collectively, the "Excluded Assets"):

5.1 Any and all of Seller's right, title, and interest in and to any poles, structures, facilities, or facilities attached or appurtenant to, but not comprising, the Street Lights, with the exception of those certain lighting poles identified in Exhibit F, if any;

5.2 Any and all of Seller's right, title, and interest in and to any and all spare parts or spare components relating to the Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights;

5.3 Any and all of Seller's right, title, and interest in and to any and all vehicles, facilities, tools, and supplies relating to installing, operating, inspecting, maintaining, repairing, replacing, or decommissioning in whole or in part any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights;

5.4 Any and all of Seller's right, title, and interest in and to any and all agreements and contracts with third parties relating to installing, operating, inspecting, maintaining, repairing, replacing, or decommissioning in whole or in part any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights;

5.5 Any and all of Seller's right, title, and interest in and to any and all franchise grants, license, permits, and interests in real property pertaining in any way to any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights; and

5.6 Any and all of Seller's right, title, and interest in and to any and all intellectual property rights associated with the street lights, including but not limited to engineering standards, facility information, warranty information, maps and asset records.

6 **Closing and Purchase Price.**

6.1 **Closing.** The closing of the purchase and sale of the Street Lights (the "Closing") shall take place at the offices of Seller at 10:00 a.m. (Eastern Time) on the tenth Business Day after the conditions to Closing set forth in Sections 13 and 14 (other than actions to be taken or items to be delivered at Closing) have been satisfied or waived by the Party entitled to waive such condition, or on such other date and at such other time and place as Buyer and Seller mutually agree in writing. The date of Closing is hereinafter referred to as the "Closing Date." The Closing shall be effective for all purposes as of 12:01 a.m. (Eastern Time) on the Closing Date.

6.2 **Purchase Price.** The total “Estimated Purchase Price” for the Street Lights is ONE HUNDRED FORTY TWO THOUSAND ONE HUNDRED NINETY EIGHT AND 70/100 Dollars (\$142,198.70). The Estimated Purchase Price consists of the estimated Net Book Value (“NBV”) of the Street Lights of ONE HUNDRED THIRTY NINE THOUSAND NINE HUNDRED NINETY Dollars (\$139,990.00), plus estimated Transition Costs and Transaction Costs totaling TWO THOUSAND TWO HUNDRED EIGHT AND 70/100 Dollars (\$2,208.70). The Company will calculate the actual NBV and associated impact on the Transition Costs and Transaction Costs at the date of the Closing and will adjust (up or down) the Estimated Purchase Price to arrive at the “Final Purchase Price.” Seller will provide Buyer written notice of the amount of the Final Purchase Price no less than ten (10) days prior to the Closing Date.

6.3 **Security for Separation Work.** At Closing, Buyer shall provide financial security assurance, in a form acceptable to Seller, for the performance of the Separation Work and Additional Separation Work (as defined in Section 8.1) and for any costs incurred by Seller to repair damages or site alterations to Seller’s facilities caused by Buyer’s employees, contractors or subcontractors in performing the Separation Work and Additional Separation Work, in the amount of SIXTEEN THOUSAND FIVE HUNDRED Dollars (\$16,500.00) pursuant to either a Letter of Credit or a Surety Bond. The form of Letter of Credit is attached hereto as Appendix S-1, and the form of Surety Bond is attached hereto as Appendix S-2. The Parties’ rights and obligations with respect to such security are set out in Section 8.1.

6.4 **Payment of Final Purchase Price and Posting of Security.** The Final Purchase Price shall be payable at Closing in immediately available U.S. funds by wire transfer to the account designated by Seller or by certified or bank cashier’s check payable to “Niagara Mohawk Power Corporation d/b/a National Grid.”

7 Condition; Disclaimers; Indemnification.

7.1 **Condition and Liability.** The Street Lights are being sold, assigned, conveyed, transferred, and delivered to Buyer “as is, where is” without warranties or representations of any kind and subject to all faults of whatever nature, except Seller represents and warrants that to Seller’s knowledge, it has good and marketable title to the Street Lights and that they shall be conveyed to Buyer, at the time of Closing, free and clear of all liens and encumbrances except for Permitted Liens. All liabilities, obligations, and claims in connection with the Street Lights that arise or are incurred after the Closing Date shall not be deemed liabilities or obligations of Seller and shall be the full responsibility of Buyer. As of the Closing Date, Buyer shall assume all responsibility and obligations associated with ownership of the Street Lights, including without limitation any repair, maintenance, replacement and operation responsibilities. Seller will conduct stray voltage testing of the Street Lights in conformance with the requirements of the Commission’s Electric Safety Standards (established in Case 04-M-0159 and any other applicable requirements). In the event Seller identifies a stray voltage condition, Seller will make the condition safe and immediately notify Buyer of its responsibility to take all steps necessary to safeguard, mitigate, and permanently repair the stray-voltage condition. Buyer shall indemnify, defend, and hold Seller, its affiliates, and their respective, officers, directors, employees, representatives, and contractors, harmless for all injuries, damages, losses, or claims resulting from the failure of Buyer, or any of its agents, employees, or contractors, to exercise reasonable care in permanently repairing such stray-voltage condition. Buyer will report to Seller when it has

completed the permanent repairs.

7.2 Warranty Disclaimer. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT SELLER SHALL IN NO WAY BE DEEMED OR HELD TO BE OBLIGATED, LIABLE, OR ACCOUNTABLE UPON OR UNDER ANY GUARANTEES OR WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE STREET LIGHTS, THEIR DESIGN, MANUFACTURE, CONSTRUCTION, FABRICATION, CONDITION OR PERFORMANCE, INCLUDING IN PARTICULAR, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OR COMPLIANCE WITH ANY LAWS OR STANDARDS, INCLUDING THE NATIONAL ELECTRIC SAFETY CODE ("NESC"), THE NATIONAL ELECTRICAL CODE ("NEC"), THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA, "THE ELECTRIC POWER GENERATION, TRANSMISSION, AND DISTRIBUTION" STANDARD, THE OCCUPATIONAL SAFETY AND HEALTH ACT AND ANY RULES OR REGULATIONS THEREUNDER, WHETHER OR NOT SELLER KNOWS OR HAS REASON TO KNOW OF ANY SUCH PURPOSE OR VIOLATION AND WHETHER ALLEGED TO ARISE BY OPERATION OF LAW OR BY ANY APPLICABLE CUSTOM OR USAGE IN THE TRADE OR INDUSTRY OR BY A COURSE OF DEALING BETWEEN THE PARTIES, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED BY SELLER.

7.3 Liability Disclaimer. FROM AND AFTER THE CLOSING DATE, THE SELLER, ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AND CONTRACTORS SHALL NOT BE LIABLE TO BUYER OR ITS OFFICERS, OFFICIALS, EMPLOYEES, REPRESENTATIVES, OR CONTRACTORS FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL PUNITIVE, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES IN CONNECTION WITH THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO THE CONDITION, DESIGN, ENGINEERING, INSTALLATION, MAINTENANCE, CONSTRUCTION, LOCATION, OPERATION OF, OR FAILURE OF OPERATION OF, THE STREET LIGHTS, UNDER ANY THEORY OF LAW THAT IS NOW OR MAY IN THE FUTURE BE IN EFFECT, INCLUDING WITHOUT LIMITATION: CONTRACT, TORT, N.Y. GEN. BUS. LAW ARTICLE 22A, STRICT LIABILITY, OR NEGLIGENCE. ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, IF THE BUYER'S LIABILITY IN CONNECTION WITH THIS AGREEMENT IS LIMITED OR CAPPED PURSUANT TO ANY APPLICABLE STATUTE OR REGULATION, THEN THE SELLER HERETO SHALL BE ENTITLED TO ELECT AN IDENTICAL LIABILITY LIMITATION AND/OR CAP AS IF SUCH STATUTE OR REGULATION WERE APPLICABLE TO THE SELLER.

7.4 Indemnification. The Buyer agrees that from and after the Closing Date, to the extent permitted by law and to the full extent of the Buyer's insurance coverage, it shall defend, pay, protect, indemnify, and save harmless the Seller, its direct and indirect parent companies, subsidiaries and affiliates against and from any and all liabilities, claims, suits, fines, penalties, damages, personal injury, losses, fees (including reasonable attorneys' fees), costs, and expenses

arising out of or in connection with this Agreement and/or the ownership, maintenance, and operation or the failure to maintain or operate the Street Lights resulting from any act, failure, or omission on the part of the Buyer or any of its agents, employees, or contractors. The Seller, and not the Buyer, shall remain responsible for claims in connection with the Street Lights that accrued prior to the Closing Date, including costs and damages resulting from pending claims in litigation relating to the Street Lights, if any, to the extent such claims arose from events occurring prior to the Closing Date.

7.5 **Operability of the Street Lights.** Seller has maintained and currently maintains, the operability of the Street Lights in a manner consistent with Seller's Outdoor Lighting Tariff. Until Closing, Seller shall continue its regular program of operating and maintaining the Street Lights.

7.6 **Survival.** The obligations set forth in this Section 7 shall survive the termination or expiration of this Agreement.

8 **Separation Work; Reconfiguration Work.**

8.1 **Separation Work.**

(a) Buyer elects to perform all of the Separation Work and shall perform all such Separation Work. Buyer further agrees that it shall provide Seller with financial security assurance, as set forth in Section 6.3 above, in the form of a Letter of Credit or Surety Bond (the choice of which is in Buyer's sole discretion) and shall cause such Separation Work to be completed within twenty-four (24) months of the Closing or such other period as Buyer and Seller shall agree in writing. Seller agrees to work in good faith, at Buyer's request, to timely provide the information necessary to help Buyer perform such Separation Work. If Buyer further requests Geographical Information System ("GIS") data or maps of the Street Lights, Seller will work in good faith, at Buyer's sole cost, to reasonably develop and provide such information.

(b) In the case that a Letter of Credit has been secured by the Buyer to satisfy its obligations under this Agreement, if: (i) at any time prior to the expiration of the Letter of Credit, the credit rating of the bank issuing any Letter of Credit falls below the level set forth in the definition of Letter of Credit above, or (ii) the bank repudiates its obligations under, or fails to honor or pay against, the Letter of Credit before completion of the Separation Work, Buyer shall furnish or cause to be furnished to Seller one (1) or more substitute Letters of Credit from a bank meeting the credit rating level set forth in this Agreement (a "Substitute Letter of Credit") within two (2) weeks after the occurrence of such event. If the Letter of Credit is terminated before completion of the Separation Work, Buyer shall furnish or cause to be furnished to Seller one (1) or more Substitute Letters of Credit from a bank meeting the credit rating level set forth in this Agreement at least thirty (30) days before such expiration. In the event that the Buyer fails to comply with the provisions of this paragraph, Seller may drawdown on the entire Letter of Credit.

(c) In the case that a Surety Bond has been secured by the Buyer to satisfy its obligations under this Agreement, if: (i) at any time prior to the expiration date of the Surety Bond, the credit rating of the Surety issuing any Surety Bond falls below the level set forth in the definition of Surety Bond above, or (ii) the Surety repudiates its obligations under, or fails to honor or pay against, the

Surety Bond before completion of the Separation Work, Buyer shall furnish or cause to be furnished to Seller one (1) or more substitute Surety Bonds from a Surety meeting the credit rating level set forth in this Agreement (a "Substitute Surety Bond") within five (5) business days after the occurrence of such event. If the Surety Bond is terminated before completion of the Separation Work, Buyer shall furnish or cause to be furnished to Seller one (1) or more Substitute Surety Bonds from a Surety meeting the credit rating level set forth in this Agreement at least thirty (30) days before such expiration. If the Surety is declared bankrupt or becomes insolvent, or if its right to do business is terminated, or if its status for any other reason is rendered inadequate for the Buyer to meet its obligations hereunder, Buyer shall furnish or cause to be furnished to Seller one (1) or more Substitute Surety Bonds from a Surety meeting the credit rating level set forth in this Agreement within fifteen (15) days after the occurrence of such event. In the event that the Buyer fails to comply with the provisions of this paragraph, Seller may make a claim against the entire Surety Bond. To the extent Seller makes a claim against the Surety Bond for any performance obligation under this Agreement and in the event the Surety does not honor it, either in whole or in part (the "Rejected Claim"), then Buyer understands and agrees that Buyer shall remain financially responsible for such Rejected Claim. In addition, Buyer's right to reduce the Surety Bond amount pursuant to this Agreement shall be suspended until Buyer satisfies the Rejected Claim.

(d) To the extent that the Separation Work is performed by Buyer or Buyer's contractor, and is not performed by Seller, Buyer represents and warrants to Seller that any personnel that perform work on the Street Lights will be qualified by complying with established regulations and standards associated with the work to be conducted. To identify requirements related to safety or the construction, repair, or maintenance of the street lighting system, Buyer should consult among other documentation, the Occupational Health and Safety Administration ("OSHA") requirements, including but not limited to OSHA 1910.269, "The Electric Power Generation, Transmission, and Distribution" standard, the NEC, the NESC, the New York State Labor Law governing how close workers (qualified) and non-workers (unqualified) can get to energized equipment at primary and/or secondary voltages, and requirements by the New York State Department of Transportation. In addition to that which is provided in Section 7.4, Buyer shall indemnify, defend, and hold harmless Seller from any injury, damage, loss or claims resulting from any breach by Buyer of this representation and warranty.

(e) Within thirty (30) days of Buyer's completion of the Separation Work, Buyer shall provide written notice to Seller that such Separation Work has been fully performed in accordance with this Agreement. Upon such notice from Buyer, Seller may perform any necessary inspections, at Seller's cost, to determine that all Separation Work has been completed. If such inspections reveal that, in Seller's sole and reasonable discretion, the required Separation Work has not been performed or adequately performed, Seller shall: (i) notify Buyer of the need for additional Separation Work (the "Additional Separation Work"); and (ii) allow Buyer until twenty-four (24) months after Closing to perform or cause to be performed by a third party the necessary Additional Separation Work. Upon completion of the Additional Separation Work, Buyer shall provide written notice to Seller that such Additional Separation Work is complete.

(f) If Buyer has not completed all Separation Work and Additional Separation Work, within twenty-four (24) months of the Closing in accordance with this Section 8.1, Seller may at its option elect to notify Buyer of its intention to perform such work on Buyer's behalf. Seller shall

provide such notice within thirty (30) days of the end of the twenty-four (24) month period set forth above. In such event, upon completion of such work by Seller, Seller shall determine its actual costs of performing such work, inclusive of all applicable overheads and adders, and shall invoice Buyer for that amount. If Buyer fails to pay any invoice issued by Seller for the cost of performing such work within thirty (30) days of the date of such invoice, Seller may draw on the financial security amount provided by Buyer for such purposes under Section 6.3 of this Agreement. In the event that the financial security amount is in excess of Seller's invoice for the Separation Work, Seller shall release the financial security amount in excess of such amount. In the event that the financial security amount is insufficient to satisfy Seller's invoice for the Separation Work, Seller may, at its option, include all or any part of the remaining invoice balance for the Separation Work in Seller's bills or invoices to Buyer for street lighting electric service. Notwithstanding the foregoing, Seller shall release the financial security assurance provided by Buyer for the Separation Work within ninety (90) days of Seller's reasonable determination that all necessary Separation Work and Additional Separation Work has been adequately completed by Buyer in accordance with this Agreement; or (b) if applicable, Buyer's full payment of any invoices for Seller's performance of the Separation Work.

(g) Nothing in this Agreement shall be construed to require Seller to perform any Separation Work or Additional Separation Work beyond that which is expressly agreed to herein, to perform any other work on facilities owned by Seller at the request of Buyer, or to maintain, repair or replace any equipment owned by Buyer.

8.2 **Reconfiguration Work.** Buyer elects not to have Seller perform any Reconfiguration Work, and Seller shall not perform any such Reconfiguration Work.

9 **Taxes and Assessments.**

9.1 Real property taxes and assessments and any other applicable fees, taxes and charges assessed or imposed on Seller, by virtue of its ownership, use, operation, inspection, maintenance or repair of the Street Lights, will be prorated and adjusted as of 11:59 p.m. of the day before the Closing Date, with Seller bearing the expense of the item applicable to the period before the Closing Date and Buyer bearing the expense of the item applicable to the period on or after the Closing Date. In consideration of Seller's agreement hereunder, Buyer agrees that it shall exercise Commercially Reasonable Efforts to obtain, and cooperate with Seller in obtaining, a reduction from New York State, prior to the next tax status date, in the assessed valuation of its real property facilities located within the Buyer's municipal boundaries that accurately reflects the removal of the Street Lights from the real property owned by Seller within the Buyer's municipal boundaries.

9.2 All transfer and sales taxes incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by Buyer. Buyer shall prepare and file in a timely manner any and all tax returns or other documentation relating to such taxes; provided that, to the extent required by applicable law, Seller will join in the execution of any such tax returns or other documentation relating to any such taxes. Buyer shall provide to Seller copies of each such tax return at least thirty (30) days prior to the date such tax return is required to be filed.

10 **Bill of Sale and Risk of Loss.** The sale, assignment, conveyance, transfer, and delivery

of the Street Lights will be effected by the Bill of Sale. On the Closing Date, Seller shall deliver to Buyer the Bill of Sale, fully executed and acknowledged and sealed and, simultaneously with such delivery, Seller shall take all such steps as may be necessary to put Buyer in actual possession of the Street Lights as and where presently located. Seller shall bear the risk of loss of and damage to the Street Lights during the period from the Effective Date up to but not including the Closing Date, and Buyer shall bear the risk of loss of and damage to the Street Light from and after the Closing Date.

11 **Representations of Seller.** Seller represents and warrants to Buyer that as of the Closing Date:

11.1 **Organization and Good Standing.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with full power to own its properties and conduct its business as it is now being conducted.

11.2 **Absence of Conflicts.** Subject to obtaining Seller's Required Approvals, neither the execution of this Agreement, the consummation of the transactions contemplated hereby, nor compliance with the terms and provisions of this Agreement, will: (a) conflict with or result in a breach of the terms, conditions, or provisions of or constitute a default under Seller's Certificate of Incorporation or any material contract to which Seller is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Seller's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby; (b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Seller; or (c) require any approval, consent, authorization, or other order or action of any court, governmental authority, or regulatory body under any law applicable to Seller, which has not already been obtained.

11.3 **Authorization.** Subject to obtaining Seller's Required Approvals, Seller has all requisite corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Agreement has been duly and validly authorized by all necessary corporate action; and this Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

12 **Representations of Buyer.** Buyer represents and warrants to Seller that as of the Closing Date:

12.1 **Organization and Good Standing.** Buyer is a municipality duly constituted, authorized and validly existing and in good standing under the laws of the State of New York, with full power to own its properties and conduct its business as it is now being conducted

12.2 **Absence of Conflicts.** Subject to obtaining Buyer's Required Approvals, neither the execution of this Agreement, the consummation of the transactions contemplated hereby, nor compliance with the terms and provisions of this Agreement, will: (a) conflict with or result in a breach of the terms, conditions, or provisions of or constitute a default under Buyer's organizational

documents or any material contract to which Buyer is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Buyer's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby; (b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Buyer; or (c) require any approval, consent, authorization, or other order or action of any court, governmental authority, or regulatory body under any law applicable to Buyer, which has not already been obtained.

12.3 **Authority.** Subject to obtaining Buyer's Required Approvals, Buyer has all requisite municipal power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Agreement has been duly and validly authorized by all necessary municipal action; and this Agreement has been duly and validly executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

12.4 **Availability of Funds.** Buyer has sufficient funds available to it to enable Buyer to pay the Final Purchase Price to Seller at the Closing.

13 **Conditions Precedent to Buyer's Obligations.** All obligations of Buyer under this Agreement are subject to the fulfillment at or before the Closing of each of the following conditions:

13.1 **Seller's Representations and Warranties.** The representations and warranties made by Seller in this Agreement shall have been materially true and correct as of the Effective Date and shall be materially true and correct as of the Closing Date; provided that Seller shall have no liability to Buyer for any such representation not being materially true and correct as of the Closing Date due to occurrences, matters, events, facts or circumstances occurring after the Effective Date.

13.2 **Seller's Performance.** Seller shall have performed and complied, in all material respects, with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Seller at or before the Closing.

13.3 **Buyer's Required Approvals.** On or before the Closing Date, Buyer shall have obtained Buyer's Required Approvals, and they shall be in full force and effect.

13.4 **Seller's Deliverables.** On the Closing Date, Seller shall deliver:

- (a) a counterpart of the Bill of Sale duly executed by Seller;
- (b) a counterpart of the Attachment Agreement duly executed by Seller; and
- (c) a counterpart of the Service Agreement duly executed by Seller.

14 **Conditions Precedent to the Seller's Obligations.** All obligations of Seller under this Agreement are subject to the fulfillment, at or before the Closing, of each of the following conditions:

14.1 **Buyer's Representations and Warranties.** The representations and warranties made by Buyer in this Agreement shall have been materially true and correct as of the Effective Date and shall be materially true and correct as of the Closing; provided that Buyer shall have no liability to Seller for any such representation not being materially true and correct as of the Closing due to occurrences, matters, events, facts or circumstances occurring after the Effective Date.

14.2 **Buyer's Performance.** Buyer shall have performed and complied, in all material respects, with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Buyer at or before the Closing.

14.3 **Seller's Required Approvals.** On or before the Closing Date, Seller shall have obtained Seller's Required Approvals and they shall be in full force and effect.

14.4 **Buyer's Deliverables.** On the Closing Date, Buyer shall deliver:

- (a) a counterpart of the Bill of Sale duly executed by Buyer;
- (b) a counterpart of the Attachment Agreement duly executed by Buyer;
- (c) a counterpart of the Application for Service and Service Agreement duly executed by Buyer;
- (d) resolutions of the governing board for Buyer certified by the Secretary, Assistant Secretary, or other officer of Buyer authorizing the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby; and
- (e) the financial security assurance as outlined in Section 6.3.

15 **Expenses.** Except to the extent expressly provided to the contrary in this Agreement, and whether or not the transactions contemplated herein are consummated, all costs and expenses incurred by a Party in connection with the negotiation, execution, and consummation of the transactions contemplated hereby, including attorneys' fees and the cost of filing for and prosecuting applications for Seller's Required Approvals and Buyer's Required Approvals, shall in all instances be borne by the Party incurring such costs and expenses.

16 **Further Assurances.** Subject to the terms and conditions of this Agreement, at either Party's request and without further consideration, the other Party shall execute and deliver to such requesting Party such other instruments of sale, transfer, conveyance, assignment and confirmation, provide such materials and information and take such other actions as such requesting Party may reasonably request in order to consummate the transactions contemplated by this Agreement; provided that the other Party shall not be obligated to execute or deliver any instruments, provide any materials or information, or take any actions that modify the rights, remedies, obligations, or

liabilities of such other Party pursuant to this Agreement or applicable law.

17 **Termination.**

17.1 **Termination Prior to Closing.**

(a) This Agreement may be terminated at any time prior to the Closing by mutual written consent of Seller and Buyer.

(b) This Agreement may be terminated at any time prior to the Closing by either Party upon written notice to the other Party if: (i) any governmental authority of competent jurisdiction (other than the Buyer) issues an order, judgment or decree permanently restraining, enjoining or otherwise prohibiting the Closing, and such order, judgment or decree is final and non-appealable; or (ii) any statute, rule, order or regulation is enacted or issued by any governmental authority which, directly or indirectly, prohibits the consummation of the Closing; or (iii) the Closing contemplated by this Agreement has not occurred on or before one year after the Effective Date (the "Outside Date"); provided that the right to terminate this Agreement under this Section 17.1(b) shall not be available to any Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before the Outside Date.

(c) This Agreement may be terminated at any time prior to the Closing by Buyer upon written notice to Seller if any of Buyer's Required Approvals shall have been denied.

(d) This Agreement may be terminated at any time prior to the Closing by Seller upon written notice to Buyer if any of Seller's Required Approvals shall have been denied.

(e) This Agreement may be terminated at any time prior to the Closing by either Party upon written notice to the other Party if the other Party (the "Breaching Party") has materially breached or violated a representation, warranty, covenant or agreement hereunder so as to cause the failure of a condition to the Closing set forth in Section 13 or Section 14, as applicable, and such breach (other than a breach of Buyer's obligation to pay the Final Purchase Price in accordance with the terms of Section 6, for which no cure period shall be allowed) has not been cured by the earlier of thirty (30) days following written notice thereof or the Outside Date, provided that if such violation or breach is not capable of being cured within such thirty (30) day period and such thirty (30) day period shall have ended before the Outside Date, the Breaching Party shall have an additional period to cure the breach that expires on the earlier of thirty (30) days thereafter or the Outside Date.

17.2 **Remedies Upon Termination Prior To Closing.**

(a) If this Agreement is validly terminated prior to the Closing by a Party pursuant to Section 17.1(a), (b), (c), or (d) hereof, neither Party shall have any liability to the other Party arising from this Agreement.

(b) If this Agreement is validly terminated prior to the Closing by a Party pursuant to Section 16.1(e) hereof, such Party may pursue any remedies against the Breaching Party available under this Agreement or applicable law, subject to the provisions of Sections 13 and 14 and subject to the limitation of liability set forth in Section 7 hereof.

18 **Mutual Releases.**

18.1 In consideration for the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of such which is hereby acknowledged, Buyer for itself, its successors, assigns, and affiliates, and the officers, directors, employees, agents, representatives and contractors of all of them (“Buyer Releasers”), shall and hereby does release, remise, acquit, and forever discharge Seller, its successors, assigns, and affiliates, and the officers, directors, employees, representatives, agents, and contractors of all of them, of and from any and all manner of claims, demands, damages, debts, dues, sums, accounts, costs, obligations, proceedings, actions, causes of action, or suits, of any nature whatsoever, whether in tariff, law, equity, or otherwise, which Buyer Releasers now have or hereafter can, shall, or may have arising in any way out of, or with respect to, any and all street lighting service provided by Seller to Buyer, or any matter related thereto, including those not yet ascertainable, if any, resulting therefrom at any time prior to and through and including the Effective Date.

18.2 In consideration for the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Seller for itself, its successors, assigns, and affiliates, and the officers, directors, employees, agents, representatives, and contractors of all of them (“Seller Releasers”), shall and hereby does release, remise, acquit and forever discharge Buyer, its successors, assigns, and affiliates, and the officers, directors, employees, representatives agents and contractors of all of them, of and from any and all manner of claims, demands, damages, debts, dues, sums, accounts, costs, obligations, proceedings, actions, causes of action, or suits, of any nature whatsoever, whether in tariff, law, equity, or otherwise, which Seller Releasers now have or hereafter can, shall, or may have arising in any way out of, or with respect to, street lighting service provided by Seller to Buyer, or any matter related thereto, including those not yet ascertainable, if any, resulting therefrom at any time prior to and through and including the Effective Date.

18.3 Each Party agrees not to take a position in any proceedings before the Commission or any court in these matters contrary to the agreements set forth in this Section 18, and agrees not to assist another participant in taking such a contrary position.

19 **Miscellaneous.**

19.1 **Entire Agreement.** Seller and Buyer agree that this Agreement (together with its exhibits) constitutes the entire agreement between the Parties.

19.2 **Notices, Etc.** All notices, requests, demands, and other communications permitted or required under this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered, when received by mailing, by certified mail, postage prepaid, return receipt requested, when delivered by a reputable overnight courier, or when sent by facsimile with electronic confirmation of receipt, to:

Buyer: COUNTY OF ALBANY, NY
Attn:
Address:

Seller: Niagara Mohawk Power Corporation d/b/a National Grid
300 Erie Boulevard West
Syracuse, New York 13202
Attn: Outdoor Lighting Manager

or to such other address as shall be subsequently designated by notice to the Parties.

19.3 **Counterparts; Facsimile and Electronic Copies.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Any facsimile or electronically transmitted copies hereof or signature hereon shall, for all purposes, be deemed originals.

19.4 **Severability.** If any provision of this Agreement is held invalid by any court or body of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

19.5 **Survival.** The terms and provisions of this Agreement, to the extent necessary or contemplated, shall survive the Closing. In particular, but not by way of limitation, all limitations on liability and indemnities contained in Section 7 and Buyer's obligation to reduce Seller's real property assessment shall survive the termination or expiration of this Agreement.

19.6 **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect or limit in any way the meaning or interpretation of this Agreement.

19.7 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of New York without regard to the principles of the conflict of laws contained therein. Each Party hereby submits to the personal and subject matter jurisdiction of the courts of the State of New York for the purpose of interpretation and enforcement of this Agreement. Venue in any action or proceeding shall be in the State of New York.

19.8 **Waiver.** Any term or condition of this Agreement may be waived at any time by the Party that is entitled to benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion.

19.9 **Amendment.** This Agreement may be amended, supplemented or modified only by a written instrument duly executed by authorized representatives of each Party.

19.10 **No Third-Party Beneficiaries.** Except for the provisions of Section 7 (which are intended to be for the benefit of the persons identified therein), the terms and provisions of this Agreement are intended solely for the benefit of the Parties and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person.

19.11 **Assignment; Binding Effect.** This Agreement and the rights and obligations

set forth herein shall not be assigned by either Party without the written agreement of both Parties; provided, however, that Seller shall be permitted to assign this Agreement to any of its affiliates without the written agreement of Buyer.

19.12 **Remedies Under Seller's Tariffs.** The Parties stipulate and agree that all of the services and charges provided for in this Agreement are authorized and governed by the provisions of Seller's Outdoor Lighting Tariff (in the case of unmetered service) or the Seller's Electricity Tariff (in the case of metered service) and, accordingly, that Seller and Buyer expressly reserve all of their rights and remedies under the tariffs, including Seller's right to terminate electric service to Buyer under such tariffs in conformance with Section 14.3 of the Commission's Rules and Regulations, 16 N.Y.C.R.R. § 13.3, in the event of the Buyer's failure to pay any amounts due under this Agreement or any other violation of this Agreement for which termination of service is authorized under such tariffs or the Commission's Rules and Regulations. The Parties further stipulate and agree that in the event of any conflict between the provisions of this Agreement and the provisions of the tariffs, the applicable provisions of such tariffs shall apply.

19.13 **Conflicts.** In the event of any conflict between the terms of this Agreement, the Service Agreement, and the Attachment Agreement, the agreements shall prevail in the following order: (i) the Service Agreement; (ii) the Attachment Agreement, and (iii) this Agreement.

19.14 **Supersedes Previous Agreements.** This Agreement revokes and supersedes all prior or contemporaneous agreements (whether written or oral), negotiations, commitments, and writings that pertain to the subject matter hereof. All such agreements, negotiations, commitments, and writings will be of no further force or effect, and the parties to any such other agreement, negotiation, commitment, or writing will have no further rights or obligations thereunder.

IN WITNESS WHEREOF, intending to be legally bound, the Parties' duly authorized representatives have executed this Agreement as of the Effective Date.

**NIAGARA MOHAWK POWER
CORPORATION**
"Seller"

COUNTY OF ALBANY, NY
"Buyer"

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A
ATTACHMENT AGREEMENT

EXHIBIT B

FORM OF QUIT CLAIM BILL OF SALE

Reference is made to that certain Agreement for Purchase and Sale of Street Lights dated as of the ____ day of _____, 20__ between the [BUYER] and NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID (the “Transaction Agreement”). Pursuant to the Transaction Agreement, the undersigned, NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID (the “Seller”), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, and transfers, all of its right, title, and interest in and to the assets described on Exhibit A attached hereto and incorporated herein by reference and made a part hereof (collectively, “Assets”) to the [____BUYER____], a municipal corporation organized and existing under the laws of the state of New York having its principal office and place of business located at [____ADDRESS____] (the “Buyer”).

It is the intent of the Seller and Buyer that this instrument transfers all of Seller’s right, title, and interest in and to the Assets. Seller hereby represents to Buyer that Seller has the right to transfer all of Seller’s right, title, and interest in and to the Assets.

Seller hereby covenants and agrees for the benefit of Buyer that Seller will defend, at Seller’s sole cost and expense, the right, title, and interest of Buyer in and to the Assets against the lawful claims and demands of all persons.

Buyer acknowledges that it has examined the Assets as fully as desired and Buyer waives and disclaims any right to seek recovery from Seller based on the current condition of the Assets. BUYER AGREES THAT ALL OF THE ASSETS ARE SOLD “AS IS” AND “WHERE IS” AND WITHOUT ANY ORAL, STATUTORY, EXPRESS OR IMPLIED WARRANTIES OR GUARANTEES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TENANTABILITY, HABITABILITY, USE AND WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OR TRADE). SELLER SPECIFICALLY DISCLAIMS, AND BUYER HEREBY WAIVES, ALL WARRANTIES AND GUARANTEES. Buyer shall take title to the Assets upon execution of this document, and Buyer assumes any and all liability of any kind for claims or damages in connection with the Assets arising from acts, omissions, or events occurring after the date hereof. Buyer agrees to take the Assets with knowledge that they have been used for a period of time by Seller in its business. The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

Buyer agrees to defend with counsel satisfactory to Seller and to pay, protect, indemnify, defend, release and save harmless Seller and its parents and affiliates and their successors and assigns and any of the officers, directors, employees, and shareholders of any of them, from and against, any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all attorneys’ fees), causes of action, suits, claims, damages, obligations, demands or judgments of any nature in connection with the Assets to the extent arising from acts, omissions, or events occurring after the Closing (hereinafter referred to as “Claims”) including, without limitation, all Claims

brought by third parties for personal injury and property damage, economic damage, or environmental damage or harm (including, without limitation, for investigation, response, removal, clean-up, and/or remediation). The Seller, and not the Buyer, shall remain responsible for claims, other than Buyer's claims, in connection with the Assets that accrued prior to the Closing, including costs and damages resulting from pending claims in litigation relating to the Assets, if any, to the extent such claims arose from events occurring prior to the Closing. The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

In no event, whether as a result of breach of contract, tort (including negligence and strict liability), or otherwise shall Seller be liable for any or all special, indirect, incidental, penal, punitive or consequential damages of any nature in connection with, or arising from, the transactions contemplated by this Bill of Sale, including, without limitation, delays, lost profits, business interruptions, loss of use, lost business opportunities, loss of revenue, losses and other damages by reason of facility shutdown, equipment damage, cost of replacement power or substitute or temporary facilities or services, cost of capital, loss of goodwill, and claims of suppliers and customers, whether or not: (i) such damages were reasonably foreseeable, or (ii) Seller was advised or aware that such damages might be incurred. The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

Nothing in this instrument, express or implied, is intended or shall be construed to confer upon, or give to, any third party any remedy or claim under or by reason of this instrument or any agreements, terms, covenants or conditions hereof, and all the agreements, terms, covenants and conditions contained in this instrument shall be for the sole and exclusive benefit of the Buyer and Seller and their respective successors and assigns.

This instrument and all of the provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

To the extent that any provision of this instrument shall be held to be invalid, illegal or unenforceable, it shall be modified so as to give as much effect to the original intent of such provision as is consistent with applicable law and without affecting the validity, legality or enforceability of the remaining provisions of this instrument. Each party represents and warrants to the other that the signatory identified beneath its name below has full authority to execute this instrument on its behalf.

This instrument shall be governed by and construed in accordance with the laws of the state of New York (regardless of the laws that might otherwise govern under applicable New York principles of conflicts of laws). Venue in any action with respect to this instrument shall be in the state of New York; the parties agree to submit to the personal jurisdiction of courts in the state of New York with respect to any such actions.

This instrument may be executed in multiple counterparts, each of which shall be considered an original.

[Signatures are on the following page.]

IN WITNESS WHEREOF, intending to be legally bound, the Parties' duly authorized representatives have executed this Quit Claim Bill of Sale as of the dates written below.

NIAGARA MOHAWK POWER CORPORATION

Seller

By: _____

Name: _____

Title: _____

Date: _____

COUNTY OF ALBANY, NY,

Buyer

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A
to
FORM OF QUIT CLAIM BILL OF SALE
FINAL CLOSING DESCRIPTION OF STREET LIGHTING ASSETS

EXHIBIT C
BUYER'S APPROVALS

EXHIBIT D
SELLER'S APPROVALS

EXHIBIT E

PRELIMINARY DESCRIPTION OF STREET LIGHTING ASSETS

STREET LIGHT INVENTORY

EXHIBIT E-1

FINAL CLOSING DESCRIPTION OF STREET LIGHTING ASSETS

STREET LIGHT INVENTORY

EXHIBIT F
EXCLUDED LIGHTING POLES

N/A

Appendix S-1

SPECIMEN LETTER OF CREDIT

_____ Bank

(address)

IRREVOCABLE STANDBY LETTER OF CREDIT

DATE: _____
AMOUNT U.S. \$[_____]]
EFFECTIVE DATE: _____

Our No. _____

Beneficiary:

Niagara Mohawk Power Corporation
d/b/a National Grid
300 Erie Boulevard West, D-1
Syracuse, NY 13202

Attn:
Commercial Credit & Collections Manager

Applicant:

[Buyer]
[ADDRESS]
[ADDRESS]
City/Town, NY [ZIP]

At the request of:

Reference: This Letter of Credit supports the “Agreement for Purchase and Sale of Street Lights by and between Niagara Mohawk Power Corporation d/b/a National Grid and the [Buyer],” by and between Applicant and Beneficiary dated _____.

LADIES AND GENTLEMEN:

We hereby establish this irrevocable, and unconditional, except as stated herein, Letter of Credit Number _____(this “Letter of Credit”), by order of, for the account of, and on behalf of the [Buyer] (the “Applicant”) in favor of **Niagara Mohawk Power Corporation d/b/a National Grid** (the “Beneficiary”) for drawings, in one or more drafts, up to an aggregate amount not exceeding U.S. \$[_____] effective immediately. The term “Beneficiary” includes any successor of the named Beneficiary.

This Letter of Credit cannot be amended, modified or revoked without the prior written consent of both the Bank and the Beneficiary. The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit, unless an officer of the Beneficiary shall have signed a written waiver expressly referencing the right to be waived. No such waiver shall be effective as to any transaction that occurs subsequent to the date of the waiver, or with respect to any continuance of a breach after the waiver.

We hereby undertake to promptly honor your draft(s) drawn on us, indicating our Letter of Credit number _____, for all or any part of this Letter of Credit. This Letter of Credit is issued, presentable and payable and we guaranty to the drawers, endorsers, and bone fide holders of this Letter of Credit, that drafts under and in compliance with the terms of this Letter of Credit will be honored. This Letter of Credit may not be transferred or assigned by us.

Partial drawings are permitted.

Subject to the express terms and conditions herein, funds under this Letter of Credit are available to you by presentation at our offices located at [] of Beneficiary's drawing certificate issued substantially in the form of Annex 1 attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the original signature of an officer of the Beneficiary. Presentation of any drawing certificate under this Letter of Credit may be made in person to us or may be sent to us by overnight courier or by facsimile transmission to facsimile telephone number [].

All commissions and charges will be borne by the Applicant.

If documents, in compliance with the terms of this Letter of Credit, are received before 10:00 am (Eastern Time) on a Banking Day (as such term is defined in the uniform customs defined below), payment will be effected on or before 5:00 pm (Eastern Time) on the next Banking Day. If documents, in compliance with the terms of this Letter of Credit are received after 10:00 am on a Banking Day, payment will be effected on or before 5:00 pm on the second Banking Day following such date of receipt.

Presentation of document(s) that are not in compliance with the applicable anti-boycott, anti-money laundering, anti-terrorism, anti-drug trafficking, export denial or economic sanctions laws, regulations or orders (collectively "the Regulations") is not acceptable. Applicable laws vary depending on the transaction and may include United Nations, United States and/or local laws.

In the event that a drawing certificate fails to comply with the terms of this Letter of Credit including the regulations, we shall provide the Beneficiary prompt notice thereof stating the reasons that the certificate was determined to be non-compliant and shall upon Beneficiary's instructions hold any non-conforming drawing certificate and other related documents at Beneficiary's disposal or return any non-conforming drawing certificate and other related documents to the Beneficiary by delivery in person or facsimile transmission (with originals thereof sent by overnight courier). Upon being notified that the drawing was not effected in compliance with this Letter of Credit, the Beneficiary may attempt to correct such non-conforming drawing certificate in accordance with the terms of this Letter of Credit.

Except as expressly stated herein, this undertaking is not subject to any agreement, condition or qualification. This Letter of Credit does not incorporate, and shall not be deemed modified or amended by reference to any document, instrument or agreement (a) that is referred to herein (except for the Uniform Customs, as defined below), or (b) in which this Letter of Credit is referred to or to which this Letter of Credit relates.

Our obligation under this Letter of Credit shall be our individual obligation and is in no way contingent upon the reimbursement with respect thereto, or upon our ability to perfect any lien, security interest or any other reimbursement.

This Letter of Credit expires with our close of business on three hundred sixty four (364) days from the effective date; however, it is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for 364 days from the present or any future expiration date hereof, unless at least sixty (60) days before any such expiration date we notify you by registered mail / courier addressed to the address noted above, that we elect not to extend this Letter of Credit for such additional period.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 revision) International Chamber of Commerce, Publication No. 600 (the "Uniform Customs"), provided, however, that: (a) we specifically agree that a "reasonable time" within the meaning of Article 14(b) of the Uniform Customs shall not exceed three (3) Banking Days following the day of receipt of the relevant documents, and (b) if this Letter of Credit expires during the Interruption of Business as described in Article

36 of the Uniform Customs then the expiration date of this Letter of Credit shall be automatically extended without amendment to a date thirty (30) calendar days after the resumption of business and we hereby specifically agree to effect payment if the Letter of Credit is drawn against within thirty (30) days after the resumption of business.

Sincerely yours,

[_____bank name_____]

By: [insert name and title of authorized bank representative]

Authorized signature of Bank representative

**ANNEX 1 TO
IRREVOCABLE LETTER OF CREDIT NO. _____
ISSUED BY _____ [BANK NAME]**

DATE: _____

[BANK NAME]
[ATTENTION]
[BANK ADDRESS1]
[BANK ADDRESS2]

APPLICANT: [BUYER]

Ladies and Gentlemen:

The undersigned _____, a duly elected and acting officer of **Niagara Mohawk Power Corporation d/b/a National Grid** (the "Beneficiary"), hereby certifies to _____ (the "Bank"), with reference to irrevocable Letter of Credit no. _____ dated _____ (the "Letter of Credit"), issued by the Bank on behalf of the Applicant and in favor of the Beneficiary, as follows, as of the date hereof:

1. Beneficiary is making a drawing under the Letter of Credit in the amount of \$[_____] because [check applicable provision]:

[_____] (A) Applicant has failed to complete Separation Work or Additional Separation Work as defined in the Agreement for Purchase and Sale of Street Lights, by and between Beneficiary and Applicant ("the [Buyer]"), dated _____.

[_____] (B) [Bank name]'s has failed to maintain a corporate long term debt rating of at least "A-" from Standard & Poor's or "A3" from Moody's Investors Service and Beneficiary has made written demand on Applicant to deliver a replacement Letter of Credit issued by a third party bank satisfying the requirements of the Beneficiary, and Applicant has failed to deliver such replacement Letter of Credit to Beneficiary prior to the close of business on the tenth (10th) day following such written demand.

[_____] (C) the Beneficiary has received notice from the Bank of its intention to cancel this Letter of Credit before its normal expiration date and Applicant has failed, prior to the close of business on _____ [insert date which is not more than thirty (30) days before the present expiration date], to deliver to Beneficiary one or more replacement Letter of Credits satisfying the requirements of the agreement titled "Agreement for Purchase and Sale of Street Lights between Niagara Mohawk Power Corporation d/b/a National Grid and the [Buyer]," dated _____.

[_____] (D) Applicant has failed to reimburse Beneficiary for any costs incurred by Beneficiary to repair damages or site alterations to Beneficiary's facilities caused by Applicant's employees, contractors or subcontractors, as required in the Agreement for Purchase and Sale of Street Lights, by and between the Applicant and Beneficiary dated _____.

2. Based upon the foregoing, the Beneficiary hereby makes demand under the Letter of Credit for payment of U.S. dollars _____ and ____/100ths (U.S. \$_____).

3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire transferred to the Beneficiary in accordance with the following instructions:

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

In witness whereof, this certificate has been duly executed and delivered on behalf of the Beneficiary by its duly elected and acting officer as of this _____ day of _____, _____.

Beneficiary: **Niagara Mohawk Power Corporation**

By: _____(signature)

Name: _____(print name)

Title: _____

Appendix S-2

Performance (Surety) Bond

Bond No. _____

WITNESSETH:

The [Buyer], having an address at [ADDRESS], and [Surety Provider], having an address at _____, a corporation organized under the laws of the State of _____ and being duly authorized to transact the business of indemnity and suretyship in this State of New York, as **Surety**, do hereby acknowledge our indebtedness to, and are jointly and severally bound unto Niagara Mohawk Power Corporation d/b/a National Grid, as **Obligee**, in the aggregate sum of \$[_____] (the “*Maximum Obligation*”) for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors, assigns or other legal representatives, jointly and severally.

The condition of this obligation is such, that:

WHEREAS, the Principal has entered into an agreement called “AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS BETWEEN NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID AND THE [BUYER],” by and between Principal and Obligee dated _____, the “*Agreement*”); and

WHEREAS, as a condition precedent to the commencement and/or continuation of the Agreement, the Principal agrees to furnish Obligee with this surety bond, issued by the Surety in the amount above mentioned for the purpose of establishing credit and securing their performance obligations under the Agreement; and

NOW, THEREFORE, if Principal shall timely perform or cause to be performed any and all of its contractual obligations under the Agreement that may at any time be due and owing to the Obligee from Principal, then this obligation shall be null and void, otherwise it shall remain in full force and effect as a continuing obligation and shall not be extinguished. Should the Principal fail to perform or cause to be performed all obligations that may at any time be due and owing to the Obligee by the Principal in connection with the Agreement, then the Surety holds itself bound hereunder for the payment of all such amounts, and such amounts shall become immediately due from the Surety upon demand by the Obligee. Any liability which accrues while this bond is in force and is in effect shall remain and shall not be extinguished, regardless of the cancellation or termination of this bond, as set forth herein. Partial payment(s) shall not be deemed to extinguish this bond.

Surety hereby waives all defenses with respect to (i) notice of default of performance, (ii) notice of amounts owed by Principal to the Obligee, (iii) demand and diligence, (iv) notice of any extension of time granted by the Obligee to Principal, (v) any forbearance by the Obligee in favor of Principal, and (vi) any errors or inaccuracies with respect to the current formal corporate name of Principal as appearing on any documents established by Obligee in connection with the Agreement. Surety further waives any right to require that the Obligee institute suit against Principal for any amount owed or obligation to be performed by Principal to or for the benefit of the Obligee in connection the Agreement, it being the intent of this bond, and Surety hereby agrees, that if Principal fails or refuses to pay any such amount or perform any obligation due and owing to the Obligee under the Agreement, Surety shall pay such amount to the Obligee upon demand by the Obligee.

Amounts paid by Surety to the Obligor hereunder shall be credited against Surety's Maximum Obligation but shall not otherwise affect Surety's obligations under this bond. Principal and Surety agree that, subject to the Maximum Obligation, in any suit successfully prosecuted on this bond by the Obligor, the Obligor shall be entitled to recover, in addition to any other amount recovered by the Obligor, the reasonable attorneys' fees incurred by the Obligor in prosecuting said suit. Principal and Surety further agree that the Obligor does not, whether by accepting this bond or accepting any payment from Surety under this bond, waive its right to discontinue, in whole or in part and without prior notice, the Agreement in the event Principal fails or refuses to pay any amount and/or perform any obligation owed by Principal to the Obligor in connection with the Agreement, provided, however, the Obligor shall be under no duty to exercise such rights.

This bond is subject to the following additional terms, limitations and conditions:

1. The term of this bond shall commence [_____] and shall be continuous.
2. The Surety shall have the right to terminate its liability hereunder, but only as to amounts owed by Principal as a result of nonperformance as required under the Agreement after the effective date of such termination, at any time by giving notice in writing by registered mail to the Obligor and the Principal and stating therein the effective date of such termination which date shall not be less than thirty (30) days after receipt of said notice by the Obligor. Such notice shall not limit or terminate this bond in respect to any liability for acts, omissions, or indebtedness occurring or arising prior to the effective date of such termination by the Surety. Written notice must be by certified letter, return receipt requested, and mailed to the Obligor at Niagara Mohawk Power Corporation d/b/a National Grid, 300 Erie Boulevard West, D-1, Syracuse, NY 13202 (Attn: Commercial Credit and Collections Dept.), and to Principal at the [BUYER], [ADDRESS].
3. It is understood and agreed between the Principal and the Obligor that, upon receipt of Surety's thirty-day written notice of cancellation as provided above, the Obligor may demand from the Principal a replacement surety bond, in the amount corresponding to the existing amount of this Surety Bond at the time of such cancellation notice, by written notice to Principal and Principal shall deliver the replacement Surety Bond to the Obligor at least ten (10) days prior to the effective date of termination or expiration of this bond. In the event that a replacement Surety Bond is not provided in compliance with this paragraph, the Obligor shall have the right, but not the obligation, to pursue all legal rights afforded to Obligor under the Agreement, either in whole or in part and without prior notice.
4. No proceeding in law or in equity may be brought under this bond unless the same shall be commenced and process served prior to the expiration of one (1) year from the effective date of cancellation of this bond.
5. Obligor may make a claim on this bond by mailing the completed and signed Annex 1, along with a copy of this bond, to the following address of Surety: [ADDRESS] .
6. It is understood and agreed that any person(s) having a claim under the conditions of this bond may initiate suit in any court of competent jurisdiction upon this bond.
7. Surety agrees that no change, extension of time, alteration or addition to the Agreement shall in any way affect the obligation of this bond and it does hereby waive notice of any such change, extension of time, alteration or addition. Surety further agrees that any changes in, to, or under any contractual documents relating to the Agreement, and any compliance or non-compliance with formalities connected with such documents or changes, shall not affect Surety's obligation under this bond, and it does hereby waive notice of any such changes, compliance or non-compliance.

8. In this bond, (i) words denoting the singular include the plural and vice versa, and (ii) words such as “hereunder,” “hereto,” “hereof” and “herein” and other words of similar import shall, unless the context requires otherwise, refer to this bond as a whole and not to any particular article, section, subsection, paragraph or clause hereof.

9. In no event shall the Surety’s obligation exceed the Maximum Obligation.

IN WITNESS WHEREOF, the Principal and Surety have executed and delivered this bond this _____ day of _____, 20____.

(Seal)

_____, as Principal

By: _____

Name:

Title:

(Seal)

_____, as Surety

By: _____

Name:

Title:

Annex 1

1. This Annex 1 shall be considered part of the following Performance (Surety) Bond (the "Surety Bond").

Bond # _____

Surety: _____ [Surety Provider] _____

Obligee: Niagara Mohawk Power Corporation d/b/a National Grid

Principal: [BUYER]

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Surety Bond.

DATE: _____

[Surety Name] _____

[Attention] _____

[SuretyAddress1] _____

[Surety address2] _____

Principal: [BUYER]

Ladies and Gentlemen:

The undersigned _____, a duly elected and acting officer of **Niagara Mohawk Power Corporation d/b/a National Grid** (the "Obligee"), hereby certifies to

_____ (the "Surety"), with reference to Surety Bond No.

_____ dated _____ (the "Surety Bond"), issued by the Surety on behalf of the Principal and in favor of the Obligee, as follows, as of the date hereof:

1. Obligee is making a claim under the Surety Bond in the amount of \$_____ because [check applicable provision]:

[_____] (A) Principal has failed to complete Separation Work or Additional Separation Work as defined in the Agreement for Purchase and Sale of Street Lights, by and between Obligee and Principal dated _____

[_____] (B) Surety has failed to maintain a corporate long term debt rating of at least "A-" from Standard & Poor's or a "B+" rating from A.M. Best and Company and Obligee has made written demand on Principal to deliver a replacement Surety Bond issued by another Surety satisfying the requirements of the Obligee, and Principal has failed to deliver such replacement Surety Bond to Obligee prior to the close of business on the tenth (10th) day following such written demand.

[_____] (C) the Obligee has received notice from the Surety of its intention to cancel this Surety Bond before its normal expiration date and Principal has failed, prior to the close of business on _____ [insert date which is not more than thirty (30) days before the present Expiration Date], to deliver to Obligee one or more replacement Surety Bonds satisfying the requirements of the Agreement for Purchase and Sale of Street Lights, by and between the Principal and Obligee dated _____.

[_____] (D) Principal has failed to reimburse Obligee for any costs incurred by Obligee to repair damages or site alterations to Obligee's facilities caused by Principal's employees, contractors or subcontractors, as required in the Agreement for Purchase and Sale of Street Lights, by and between the Principal and Obligee dated _____.

2. Based upon the foregoing, the Obligee hereby makes a claim under the Surety Bond for payment of U.S Dollars _____ and ____/100ths (U.S. \$_____).

3. To the extent possible, funds paid pursuant to the provisions of the Surety Bond shall be wire transferred to the Obligee in accordance with the following instructions:

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Obligee by its duly elected and acting Officer as of this _____ day of _____, _____.

Obligee: **Niagara Mohawk Power Corporation**

_____(signature)

Name: _____(print name)

Title: _____