

(g) Following the Effective Time, subject to the terms of this Agreement, applicable law and applicable collective bargaining agreements: (i) the Surviving Corporation will, in good faith and consistent with business needs, consider reductions in work force in a fair and equitable manner and in light of the circumstances and the objectives to be achieved, giving consideration to previous work history, job experience and qualifications and (ii) all employees of the Surviving Corporation shall be entitled to fair and equitable consideration in connection with any job opportunities with the Surviving Corporation and its Subsidiaries, in each case without regard to whether employment prior to the Effective Time was with the Company and its Subsidiaries or Parent and its Subsidiaries.

(h) Nothing contained in this *Section 7.1* shall be deemed to constitute an employment Contract between Parent or any Subsidiary of Parent and any individual, or a waiver of Parent's or any of its Subsidiaries' right to discharge any employee at any time, with or without cause. Nothing in this *Section 7.1* or elsewhere in this Agreement (other than *Section 7.9*) is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder. Other than as provided in *Section 7.9*, nothing herein expressed or implied shall confer upon any employee of the Company or its Subsidiaries or Parent or its Subsidiaries, or upon any legal representative of such employee, or upon any collective bargaining agent, any rights or remedies, including any right to employment or continued employment of any specified period, of any nature or kind whatsoever under or by reason of this Agreement. Nothing in this Agreement shall be deemed to confer upon any Person (nor any beneficiary thereof) any rights under or with respect to any plan, program, or arrangement described in or contemplated by this Agreement, and each Person (and any beneficiary thereof) shall be entitled to look only to the express terms of any such plan, program or arrangement for his or her rights thereunder.

Section 7.2 Options. (a) At the Effective Time, each Company Stock Option which is outstanding immediately prior to the Effective Time pursuant to Company Stock Option Plans shall become and represent an option to purchase the number of Parent Shares (a "*Substitute Option*") (decreased to the nearest full share) determined by multiplying (i) the number of shares of Company Common Stock subject to such Company Stock Option immediately prior to the Effective Time by (ii) the Exchange Ratio, at an exercise price per Parent Share (rounded up to the nearest cent) equal to the exercise price per share of Company Common Stock under such Company Stock Option immediately prior to the Effective Time divided by the Exchange Ratio. After the Effective Time, except as provided in this *Section 7.2*, each Substitute Option shall be exercisable upon the same terms and conditions as were applicable under the related Company Stock Option immediately prior to or at the Effective Time. The Company shall take all necessary action to implement and make effective the provisions of this *Section 7.2*.

(b) Subject to *Section 7.2(a)*, as of the Effective Time, all Company Stock-Based Awards, whether vested or unvested, shall cease to represent a right or award with respect to shares of Company Common Stock and shall be converted into a right or award with respect to Parent Shares (an "*Assumed Stock-Based Award*") on the same terms and conditions as were applicable under the Company-Stock Based Awards, including all repurchase and forfeiture rights held by the Company. The number of Parent Shares subject to each Assumed Stock-Based Award shall be equal to the number of shares of Company Common Stock subject to such Company Stock-Based Award immediately prior to the Effective Time multiplied by the Exchange Ratio (decreased to the nearest full share). All dividend equivalents and Company Cash Awards credited to the account of each holder of a Company Stock-Based Award as of the Effective Time shall remain credited to such holder's account immediately following the Effective Time, subject to adjustment in accordance with the foregoing. All Unvested Restrictions, including all repurchase and forfeiture rights held by the Company, with respect to each Company Stock-Based Award and each Company Cash Award shall be and hereby are assigned as of the Effective Time to Parent, and the Assumed Stock-Based Awards and Company Cash Awards shall continue to be subject to the same Unvested Restrictions which applied to such Company Stock-Based

Award or Company Cash Award immediately prior to the Effective Time, after giving effect to any acceleration, lapse or other vesting occurring by operation of the Merger. The Company shall take all actions necessary to ensure that, from and after the Effective Time, the Surviving Corporation (or its assignee) shall be entitled to exercise the rights held by the Company immediately prior to the Effective Time with respect to all Unvested Restrictions. For purposes of this Agreement, (i) "Company Cash Award" means any award granted under the Company Stock Plans or otherwise other than Company-Stock Based Awards and (ii) "Unvested Restrictions" means all repurchase, cancellation, forfeiture, vesting and other conditions or restrictions applicable to a Company Stock-Based Award or a Company Cash Award.

(c) After the Effective Time, the Surviving Corporation shall file a registration statement on Form S-8 under the Securities Act covering the Parent Shares issuable upon the exercise of Substitute Options, and will maintain the effectiveness of such registration, and the current status of the prospectus contained therein, until the exercise or expiration of such Substitute Options.

(d) Prior to the Effective Time the Company shall cause the Company ESPP and all rights thereunder to be suspended immediately following the close of the Investment Period (as such term is defined in the Company ESPP) ending immediately prior to the Effective Time, with the effect of such suspension being that no offering period and no Investment Period shall commence or continue under such plan during the period of such suspension. Prior to the Effective Time, the Company shall cause the Company DRIP and all rights thereunder to be suspended immediately following the close of the Investment Period (as defined in the Company DRIP) ending immediately prior to the Effective Time, with the effect of such suspension being that no offering period and no Investment Period shall commence or continue under such plan during the period of such suspension. Prior to the Effective Time, the Company shall cause the Company Thrift Plan and Company Employee Savings Plan to be amended to suspend investments in the Company Common Stock Fund and Non-ESOP Company Common Stock Fund (as defined therein, respectively) effective as of the last business day prior to the Effective Time.

Section 7.3 *Shareholder Approval; Preparation of Proxy Statement; Other Actions.* (a) As soon as practicable following the date of this Agreement, each of the Company and Parent will duly call, give notice of, convene and hold meetings of their respective shareholders (including any adjournments or postponements thereof, the "Company Shareholders Meeting" and the "Parent Shareholders Meeting," respectively, and collectively, the "Shareholders Meetings") for the purpose, in the case of the Company, of the holders of Company Common Stock duly approving this Agreement ("Company Shareholder Approval") and, in the case of Parent, of the holders of Parent Shares duly approving the issuance of Parent Shares in the Merger ("Parent Shareholder Approval"). Parent and the Company will use their reasonable best efforts to hold the Parent Shareholders Meeting and the Company Shareholders Meeting on the same date. The Company shall, through its Board of Directors (but subject to the right of the Company's Board of Directors to terminate this Agreement as set forth in Section 9.1(e)) recommend to its shareholders that the Company Shareholder Approval be given. Subject to the remainder of this Section 7.3(a), Parent shall, through its Board of Directors, recommend to its shareholders that the Parent Shareholder Approval be given. Parent shall not withdraw, qualify or modify, or propose to withdraw, qualify or modify, in a manner adverse to the Company, the approval by such Board of Directors of the Parent Share Issuance, the Merger and this Agreement or the recommendation by such Board of Directors of the Parent Share Issuance or such Board of Directors' declaration that this Agreement and the Merger are advisable and fair to and in the best interest of, Parent and its shareholders except to the extent the Board of Directors of Parent determines in its reasonable good faith judgment that the making of, or the failure to withdraw, qualify or modify such recommendation would violate the fiduciary duties of such Board of Directors of Parent under applicable law. Parent shall not take any of the actions set forth in the preceding sentence at any time after the Parent Shareholders Meeting.

(b) The Company and Parent shall promptly prepare and file with the SEC the Proxy Statement and Parent shall prepare and file with the SEC the Registration Statement which will include the Proxy Statement as a prospectus. Each of the Company and Parent shall use its reasonable best efforts to have the Registration Statement declared effective under the Securities Act as promptly as practicable after such filing. As promptly as practicable after the Registration Statement shall have become effective, each of Parent and the Company shall distribute the Proxy Statement to its respective shareholders.

(c) No filing of, or amendment or supplement to, the Registration Statement or the Proxy Statement (other than filings of Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K) will be made by Parent or the Company without providing the other party the opportunity to review and comment thereon. Parent will advise the Company, promptly after it receives notice thereof, of the time when the Registration Statement has become effective or any supplement or amendment has been filed, the issuance of any stop order, the suspension of the qualification of the Parent Shares issuable in connection with the Merger for offering or sale in any jurisdiction, or any request by the SEC for amendment of the Registration Statement or comments thereon and responses thereto or requests by the SEC for additional information. If at any time prior to the Effective Time any information relating to Parent or the Company, or any of their respective Affiliates or officers or directors, should be discovered by Parent with respect to Parent or any of its Subsidiaries or any of its Affiliates, officers or directors or the Company with respect to the Company or any of its Subsidiaries or any of its Affiliates, officers or directors which should be set forth in an amendment or supplement to any of the Registration Statement or the Proxy Statement, so that any of such documents would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the party which discovers such information shall promptly notify the other parties hereto and an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and, to the extent required by law, disseminated to the shareholders of Parent and the Company.

(d) Each of the Company and Parent shall use reasonable best efforts to cause to be delivered a letter of its independent auditors, dated the date two business days prior to the date on which the Registration Statement shall become effective.

Section 7.4 *Access to Information; Transition.* (a) Upon reasonable notice and subject to the terms of the Confidentiality Agreement, dated as of August 12, 2004, between the Company and Parent, as the same may be amended, supplemented or modified (the "*Confidentiality Agreement*") and applicable laws relating to the exchange of information, each of the Company and Parent shall, and shall cause each of its respective Subsidiaries to, afford to the other party, and its respective officers, employees, accountants, counsel and other representatives all reasonable access, during normal business hours during the period prior to the Effective Time, to all their respective properties, books, contracts, commitments and records and, during such period, each of the Company and Parent shall (and shall cause each of its respective Subsidiaries to) make available to the other party or its designated advisors (i) a copy of each report, schedule, registration statement and other document filed or received by it during such period pursuant to the requirements of the federal or state securities laws or the federal Tax laws and (ii) all other information concerning its business, properties and personnel as the other party may reasonably request. After the date hereof, each of the Company or Parent, as the case may be, shall promptly deliver to Parent or the Company, as the case may be, copies of any written notifications it has received after the date hereof of a (i) "reportable condition" or (ii) "material weakness" in the Company's or Parent's, as the case may be, internal controls.

(b) Promptly after the date hereof, Parent and the Company will establish a transition team (the "*Transition Team*"), the chair of which will be Parent's Executive Vice President and General Counsel (the "*Transition Chairperson*") or such other person designated by Parent's Chief Executive Officer and

the other members of which (the "*Transition Coordinators*") shall consist of 10 other representatives of Parent and 10 representatives of the Company, or such number as the Chief Executive Officers of Parent and the Company agree, designated by the Transition Chairperson and approved by the Chief Executive Officer (or his designee) of each of Parent and the Company. The Transition Chairperson will assign areas of responsibility to the Transition Coordinators. The parties shall instruct the Transition Coordinators, subject to the terms of the Confidentiality Agreement and applicable laws relating to the exchange of information, to facilitate the collection and exchange of information concerning the business, operations, capital spending and budgets and financial results of Parent and the Company to the extent necessary to identify ways in which the operations of Parent and the Company can be consolidated, coordinated and/or otherwise enhanced following the Effective Time. Prior to the Effective Time, the Transition Team will also coordinate any discussions with lenders or rating agencies in connection with the transactions contemplated by this Agreement or relating to the operations of Parent and the Company following the Effective Time. The Transition Coordinators will provide the Transition Chairperson with periodic reports, subject to applicable laws relating to the exchange of information, on the findings of the Transition Team and will meet periodically in person with the Transition Chairperson to brief the Transition Chairperson on the activities and recommendations of the Transition Team, business developments and pending material business plans and decisions at each of Parent and the Company. If, at any time, after consultation with the Chairperson of the Transition Team, the taking of any action or failure to take an action is not agreed to by at least a majority of the representatives designated by each of Parent and the Company, the Transition Chairperson, together with at least one dissenting Transition Team member, shall consult with the Chief Executive Officer of each of Parent and the Company with respect thereto.

(c) No investigation or exchange of information or other action pursuant to this *Section 7.4* shall be deemed to modify any representation or warranty made by any party to this Agreement. In the event of a termination of this Agreement for any reason permitted hereby, each party shall promptly return or destroy, or cause to be returned or destroyed, all nonpublic information obtained from the other party or any of its Subsidiaries.

(d) In the event of a Parent Acquisition Transaction or the entrance into a definitive agreement providing for a Parent Acquisition Transaction during the period in which the Company is permitted to terminate this Agreement pursuant to *Section 9.1(j)* Parent shall promptly provide such information to the Company with respect to such Parent Acquisition Transaction or agreement as the Company shall reasonably request in order to evaluate the Parent Acquisition Transaction; *provided, however*, that the right of the Company to receive such information shall be subject to any confidentiality agreement applicable to the information.

Section 7.5 Fees and Expenses. Except as provided in this *Section 7.5* and *Section 9.2*, all fees and expenses incurred in connection with the Merger, this Agreement and the transactions contemplated hereby shall be paid by the party incurring such fees or expenses, whether or not the Merger is consummated; *provided, however*, that Parent and the Company shall share equally all fees and expenses of Booz Allen Hamilton Inc. and (other than attorneys' and accounting fees and expenses) incurred in relation to the printing and filing of the Proxy Statement (including any related preliminary materials) and the Registration Statement (including financial statements and exhibits) and any amendments or supplements thereto.

Section 7.6 Public Announcements; Employee Communications. Parent and the Company will consult with each other before issuing any press release or otherwise making any public statements with respect to the transactions contemplated by this Agreement and shall not issue any such press release or make any such public statement prior to such consultation, except as may be required by applicable law, fiduciary duties or by obligations pursuant to any listing agreement with any national securities exchange.

Section 7.7 *Transfer Taxes.* The Company and Parent shall cooperate in the preparation, execution and filing of all returns, questionnaires, applications or other documents regarding any real property transfer or gains, sales, use, transfer, value added, stock transfer and stamp Taxes, any transfer, recording, registration and other fees and any similar Taxes which are the liability of the Company or Parent under applicable law in connection with the transactions contemplated by this Agreement (together with any related interest, penalties or additions to Tax, "*Transfer Taxes*").

Section 7.8 *State Takeover Laws.* If any "fair price" or "control share acquisition" statute or other similar statute or regulation shall become applicable to the transactions contemplated hereby, Parent and the Company and their respective Boards of Directors shall use their reasonable best efforts to grant such approvals and take such actions as are necessary so that the transactions contemplated hereby may be consummated as promptly as practicable on the terms contemplated hereby and otherwise act to minimize the effects of any such statute or regulation on the transactions contemplated hereby.

Section 7.9 *Indemnification; Directors and Officers Insurance.* (a) The Surviving Corporation agrees that all rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the Effective Time now existing in favor of the current or former directors, officers, employees, agents or fiduciaries under benefit plans currently indemnified by the Company and its Subsidiaries (each an "*Indemnified Person*"), as provided in their respective certificates of incorporation, by-laws (or comparable organizational documents) or other agreements providing indemnification, shall survive the Merger and shall continue in full force and effect in accordance with their terms. In addition, from and after the Effective Time, Indemnified Persons who become directors, officers, employees or fiduciaries under benefit plans of the Surviving Corporation will be entitled to the indemnity rights and protections afforded to directors, officers, employees and fiduciaries under benefit plans of the Surviving Corporation. Without limiting the generality of the preceding sentence, in the event that any Indemnified Person becomes involved in any actual or threatened action, suit, claim, proceeding or investigation covered by this *Section 7.9* after the Effective Time, the Surviving Corporation shall promptly advance to such Indemnified Person his or her legal and other expenses (including the cost of any investigation and preparation incurred in connection therewith), subject to the providing by such Indemnified Person of an undertaking to reimburse all amounts so advanced in the event of a non-appealable determination of a court of competent jurisdiction that such Indemnified Person is not entitled thereto.

(b) The Surviving Corporation shall purchase officers' and directors' liability insurance with an insurer substantially comparable to the insurer under the Company's current policy of at least the same coverage and amounts, containing terms and conditions no less favorable to the insured ("*D&O Insurance*") for a period of no less than six years after the Effective Time so long as the annual premium therefor is not in excess of 200% of the last annual premium paid prior to the date hereof under the Company's current policy (the "*Current Premium*"); *provided, however*, that if the D&O Insurance is at an annual premium in excess of 200% of the Current Premium, then, unless the Board of Directors of the Surviving Corporation approves a higher amount, the Surviving Corporation will obtain as much D&O Insurance as can be obtained for the remainder of such period for a premium of 200% (on an annualized basis) of the Current Premium. *Item 7.9* of the Company Letter sets forth the Current Premium.

(c) The provisions of this *Section 7.9* are intended to be for the benefit of, and shall be enforceable by, each Indemnified Person, his or her heirs and his or her personal representatives and shall be binding on all successors and assigns of the Surviving Corporation and the Company.

Section 7.10 *Appropriate Actions; Consents; Filings.* (a) The Company and Parent shall cooperate with each other and use (and shall cause their respective Subsidiaries to use) reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things, necessary, proper

or advisable on its part under this Agreement and applicable laws to consummate and make effective the Merger and the other transactions contemplated by this Agreement as soon as practicable, including preparing and filing as promptly as practicable all documentation to effect all necessary notices, reports and other filings and to obtain as promptly as practicable all consents, registrations, approvals, permits and authorizations necessary or advisable to be obtained from any third party and/or any Governmental Entity in order to consummate the Merger or any of the other transactions contemplated by this Agreement, including obtaining the Parent Required Statutory Approvals and the Company Required Statutory Approvals in such a form that none of them would constitute a Burdensome Order.

(b) Notwithstanding anything to the contrary in *Section 7.10(a)*, (i) except in compliance with *Section 7.10(d)*, neither the Company nor Parent shall nor shall either permit any of its Subsidiaries to, without the prior written consent of the other party, divest or hold separate or otherwise take or commit to take any action that limits its freedom or the freedom of the other party, or after the Merger, the freedom of action of Parent or any of its Affiliates with respect to its Subsidiaries or the Subsidiaries or any of the businesses, product lines or assets of Parent, the Company or any of their respective Subsidiaries or Affiliates and (ii) neither Parent or any of its Affiliates, nor the Company or any of its Affiliates shall be required to divest or hold separate or otherwise take or commit to take any action that limits its freedom of action with respect to its Subsidiaries, or the Subsidiaries or any of the businesses, product lines or assets of Parent, the Company or any of their respective Subsidiaries or Affiliates, unless such action or actions would not constitute a Burdensome Action.

(c) Subject to applicable laws relating to the exchange of information, Parent and the Company shall have the right to review in advance, and to the extent practicable each will consult the other on, all the material information relating to Parent or the Company, as the case may be, and any of their respective Subsidiaries, that appear in any filing made with, or material written materials submitted to, any third party and/or any Governmental Entity in connection with the Merger and the other transactions contemplated by this Agreement. In exercising the foregoing right, each of the Company and Parent shall act reasonably and as promptly as practicable.

(d) (i) Promptly after the date hereof, Parent and the Company will establish a regulatory approval team (the "*Regulatory Approval Team*"), the chair of which will be Parent's Executive Vice President, Government & Environmental Affairs and Public Policy or such other person as may be designated by Parent's Chief Executive Officer (the "*Regulatory Approval Team Chairperson*"), the vice-chair of which will be the Company's Senior Vice President and General Counsel or such other person as may be designated by the Company's Chief Executive Officer (the "*Regulatory Approval Team Vice-Chair*") and the other members of which (the "*Regulatory Approval Coordinators*") shall consist of representatives designated by the Chief Executive Officer of the Company (or his designee) (the "*Company Regulatory Approval Coordinators*") and representatives designated by the Chief Executive Officer of Parent (or his designee) (the "*Parent Regulatory Approval Coordinators*"), provided that there shall be one more Parent Regulatory Approval Coordinator than Company Regulatory Approval Coordinator. Subject to *Section 7.10(d)(ii)*, the Regulatory Approval Team Chairperson and the Regulatory Approval Team Vice-Chair will assign areas of responsibility to the Regulatory Approval Coordinators. Subject to the terms and conditions of this Agreement, the Regulatory Approval Team will formulate the approach to be taken with respect to obtaining the Parent Required Statutory Approvals and the Company Required Statutory Approvals and coordinate filings for such approvals as set forth below. The primary responsibility for formulating the approach to be taken with respect to obtaining the Parent Required Statutory Approvals and the Company Required Statutory Approvals and all other approvals to be obtained from federal and foreign Governmental Entities shall reside with the entire Regulatory Approval Team and not a committee thereof.

(ii) The Regulatory Approval Team shall have an Illinois committee, a Pennsylvania committee and a New Jersey committee (collectively, the "*State Committees*"). The members of

each State Committee shall be appointed by the Regulatory Approval Team, with the Illinois and Pennsylvania State Committees and the New Jersey State Committee (i) being chaired by a Parent Regulatory Approval Coordinator and a Company Regulatory Approval Coordinator, respectively, and (ii) consisting of at least a majority of members who are Parent Regulatory Approval Coordinators or Company Regulatory Approval Coordinators, respectively. The Illinois State Committee shall have primary responsibility for formulating the approach to be taken with respect to obtaining the Parent Required Statutory Approvals and the Company Required Statutory Approvals from Illinois Governmental Entities. The Pennsylvania State Committee shall have primary responsibility for formulating the approach to be taken with respect to obtaining the Parent Required Statutory Approvals and the Company Required Statutory Approvals from Pennsylvania Governmental Entities. The New Jersey State Committee shall have primary responsibility for formulating the approach to be taken with respect to obtaining the Parent Required Statutory Approvals and the Company Required Statutory Approvals from New Jersey Governmental Entities. Each Regulatory Approval Team Committee shall report to, and shall consult on a regular basis, with the full Regulatory Approval Team.

(iii) Neither the Company nor Parent, nor any of their respective Subsidiaries nor any committee of the Regulatory Approval Team or any member thereof or of the Regulatory Approval Team shall make or commit to make any concessions, agreements or other undertakings with or to any Governmental Entity or other Person in connection with obtaining the Parent Required Statutory Approvals and the Company Required Statutory Approvals or otherwise consummating the Merger and the other transactions related to the Merger unless such concession, agreement or undertaking has been approved by the Regulatory Approval Team. If, at any time, the taking of any action or failure to take an action is not agreed to by the Regulatory Approval Team Chairperson and the Regulatory Approval Team Vice-Chair, they shall consult with the Chief Executive Officer of each of Parent and the Company with respect thereto. If the Chief Executive Officers do not agree with respect to any such action, the Regulatory Approval Team, with respect to approvals to be obtained from federal and foreign Governmental Entities or approvals not otherwise the responsibility of a State Committee, and the applicable State Committee, with respect to approvals that are the responsibility of such State Committee, shall determine which of the actions presented to the Chief Executive Officers shall be taken, in any event in compliance with and subject to the terms of this Agreement.

(e) The Company and Parent each shall, through the Regulatory Approval Team, keep the other apprised of the status of matters relating to completion of the transactions contemplated hereby, including promptly furnishing the other with copies of notice or other material communications received by Parent or the Company, as the case may be, or any of its Subsidiaries, from any third party and/or any Governmental Entity with respect to the Merger and the other transactions contemplated by this Agreement. The Company and Parent each shall give prompt notice to the other of any proposed change that is reasonably likely to result in a Material Adverse Effect on the Company or Parent, respectively.

(f) Subject to applicable laws relating to the exchange of information, the Company and Parent each shall, upon request by the other, furnish the other with all information concerning itself, its Subsidiaries, directors, officers and shareholders and such other matters as may be reasonably necessary or advisable in connection with the Proxy Statement, the Registration Statement or any other material statement, filing, notice or application made by or on behalf of Parent, the Company or any of their respective Subsidiaries to any third party and/or any Governmental Entity in connection with the Merger and the transactions contemplated by this Agreement.

(g) No investigation or exchange of information or other action pursuant to this *Section 7.10* shall be deemed to modify any representation or warranty made by any party to this Agreement. In the event of a termination of this Agreement for any reason, each party shall promptly return or destroy,

or cause to be returned or destroyed, all nonpublic information obtained from the other party or any of its Subsidiaries.

Section 7.11 *Section 16 Matters.* Assuming that the Company delivers to Parent the Section 16 Information reasonably in advance of the Effective Time, the Board of Directors of Parent, shall prior to the Effective Time adopt a resolution providing that the receipt by the Company Insiders of Parent Shares in exchange for shares of Company Common Stock (including Company Restricted Shares), and of options to purchase Parent Shares upon conversion of Company Stock Options or to receive Parent Shares upon conversion of Company Performance Units, Company Performance Shares or Company RSUs, in each case, pursuant to the transactions contemplated hereby and to the extent such securities are listed in the Section 16 Information provided by the Company to Parent prior to the Effective Time, are intended to be exempt from liability pursuant to Section 16(b) under the Exchange Act such that any such receipt shall be so exempt. For purposes of this Agreement, (a) "*Section 16 Information*" shall mean information accurate in all material respects regarding the Company Insiders, the number of shares of Company Common Stock held by each such Company Insider and the number and description of Company Stock Options, Company Restricted Shares, Company Performance Units, Company Performance Shares and Company RSUs held by each such Company Insider and (b) "*Company Insiders*" shall mean those officers and directors of the Company who are subject to the reporting requirements of Section 16(a) of the Exchange Act and who are listed in the Section 16 Information.

Section 7.12 *Affiliate Letters.* As promptly as practicable, the Company shall deliver to Parent a letter identifying all Persons who are, at the time this Agreement is submitted for adoption by the shareholders of the Company, "affiliates" of the Company for purposes of Rule 145 under the Securities Act. The Company shall use its reasonable best efforts to deliver or cause to be delivered to Parent, prior to the Effective Time, an Affiliate Letter in the form attached hereto as *Exhibit B* from each such Person.

Section 7.13 *Dividends.* (a) After the date of this Agreement, notwithstanding anything to the contrary in this Agreement, each of Parent and the Company, respectively, shall have the right to take any action deemed necessary by such party to ensure that holders of Parent Shares and Shares, respectively, shall not receive two dividends, or fail to receive one dividend, for any single calendar quarter with respect to their Parent Shares and/or Shares or any Parent Shares that any such holder receives in exchange for such Shares in the Merger, and each of Parent and the Company shall cooperate with the other in respect of the payment of dividends with respect to the Parent Shares and the Shares and the record dates and payment dates relating thereto in order to achieve the foregoing.

(b) To the extent permitted by applicable law and consistent with the fiduciary duties of the Board of Directors of Parent, Parent shall take all actions necessary so that the first quarterly dividend paid per Parent Share by the Surviving Corporation after the Effective Time multiplied by the Exchange Ratio and rounded to the nearest cent is at least equal to the amount per Share of the most recent quarterly dividend paid by the Company prior to the Effective Time, up to a maximum of \$0.47 per Parent Share (the lesser of \$0.47 dividend per Parent Share and the last quarterly per Share dividend paid by the Company prior to the Effective Time divided by the Exchange Ratio rounded to the nearest cent being referred to as the "*Dividend Threshold*"). As close to 30 days prior to the anticipated Effective Time as reasonably practicable, Parent shall notify the Company in writing of what Parent believes will be the amount of the first quarterly dividend per Parent Share paid by the Surviving Corporation after the Effective Time. If such amount per Parent Share is less than the Dividend Threshold (the amount of such shortage is referred to as the "*Dividend Shortfall*"), then the Company shall be permitted to make prior to the Effective Time a one time special cash dividend to the holders of Company Common Stock in an amount per Share equal to the amount, rounded to the nearest cent, obtained by multiplying (i) the Exchange Ratio by (ii) the Dividend Shortfall.

Section 7.14 *Governance.* (a) At or prior to the Effective Time, Parent shall take all actions necessary to appoint six directors who immediately prior to the Effective Time served as directors of the Company and were designated by the Chief Executive Officer of the Company to the Board of Directors of Parent so that the total number of members of the Board of Directors of the Surviving Corporation is 18. The directors appointed pursuant to this *Section 7.14(a)* shall be evenly allocated among Class I, Class II and Class III of the Board of Directors of the Surviving Corporation as designated by the Chief Executive Officer of the Company. All appointments made pursuant to this *Section 7.14(a)* shall be effective as of the Effective Time and shall comply with the applicable listing and corporate governance rules of the NYSE, the applicable provisions of the Exchange Act and all other applicable laws and regulations, in each case, as in effect at the Effective Time.

(b) The headquarters of the Surviving Corporation and certain divisions and Subsidiaries thereof will be as set forth in the Amended and Restated By-laws of the Surviving Corporation.

(c) The tradename and logo of the Surviving Corporation shall be as set forth on *Item 7.14(c)* of the Parent Letter.

(d) Parent shall cause the Amended and Restated By-laws of Parent to be amended as provided in *Exhibit A* hereto effective immediately following the Effective Time.

(e) During the four-year period immediately following the Effective Time, the Surviving Corporation shall provide, directly or indirectly, charitable contributions and traditional local community support within the service areas of the Company and each of its Subsidiaries that are utilities at levels substantially comparable to and no less than the levels of charitable contributions and community support provided by the Company and such Subsidiaries within their service areas within the two-year period immediately prior to the Effective Time.

ARTICLE VIII CONDITIONS PRECEDENT

Section 8.1 *Conditions to Each Party's Obligation to Effect the Merger.* The respective obligations of each party to effect the Merger shall be subject to the fulfillment at or prior to the Effective Time of the following conditions:

(a) *Shareholder Approval.* Each of the Parent Shareholder Approval and the Company Shareholder Approval shall have been obtained.

(b) *No Prohibition.* No Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, law, ordinance, rule, regulation, judgment, decree, injunction or other order (whether temporary, preliminary or permanent) that is in effect and restrains, enjoins or otherwise prohibits consummation of the Merger or the other transactions contemplated by this Agreement (collectively, an "*Order*"), and no federal or state Governmental Entity shall have instituted any proceeding that is pending seeking any such Order.

(c) *Stock Exchange Listing.* The Parent Shares issuable in the Merger shall have been authorized for listing on the NYSE, subject to official notice of issuance.

(d) *Registration Statement; Securities Approval.* The Registration Statement shall have become effective in accordance with the provisions of the Securities Act and all applicable state blue sky securities filings, permits or approvals shall have been made or received in accordance with applicable law. No stop order suspending the effectiveness of the Registration Statement shall have been issued by the SEC or any state securities administrator and no proceedings for that purpose shall be pending, or to the Knowledge of Parent or the Company, threatened by the SEC or any state securities administrator.

(e) *Regulatory Consents.*

(i) The waiting period (and any extension thereof) applicable to the consummation of the Merger under the HSR Act shall have expired or been terminated.

(ii) The Parent Required Statutory Approvals and the Company Required Statutory Approvals shall have been obtained and shall have become Final Orders.

(iii) Other than the filings provided for in *Section 2.3*, all other notices, reports and other filings required to be made prior to the Effective Time by the Company or Parent or any of their respective Subsidiaries with, and all other consents, registrations, approvals, permits and authorizations required to be obtained prior to the Effective Time by the Company or Parent or any of their respective Subsidiaries from, any Governmental Entity in connection with the execution and delivery of this Agreement and the consummation of the Merger and the other transactions contemplated hereby by the Company and Parent shall have been made or obtained, as the case may be, except for those the failure to be made or obtained would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Parent or the Company or, after giving effect to the Merger, on Parent.

(f) *No Burdensome Orders.* No Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, law, ordinance, rule, regulation, judgment, decree, injunction or other order (whether temporary, preliminary or permanent) in connection with a Company Required Statutory Approval or a Parent Required Statutory Approval that (i) requires Parent or the Company or any of their respective Affiliates to take or commit to take any Burdensome Action or (ii) would otherwise constitute a Burdensome Action (a "*Burdensome Order*") and is in effect at the time all other conditions in this *Article VIII* to each party's obligation to effect the Merger have been fulfilled.

Section 8.2 Conditions to the Obligations of the Company to Effect the Merger. The obligation of the Company to effect the Merger shall be subject to the fulfillment at or prior to the Effective Time of the following additional conditions:

(a) *Accuracy of Representations and Warranties.* The representations and warranties of Parent set forth in *Sections 5.3* (Capital Structure), *5.4* (Authority), *5.8* (Information Supplied), *5.21* (Required Vote of Parent Shareholders), *5.22* (State Takeover Statutes), *5.23* (Brokers) and *5.26(b)* through *(c)* (Material Contracts) shall be true and correct with respect to those matters that are qualified by Material Adverse Effect or materiality and shall be true and correct in all material respects with respect to those matters that are not so qualified, in each case as of the date of this Agreement and as of the Effective Time as though made on and as of the Effective Time (except to the extent any such representation and warranty expressly speaks as of a specified date which shall be true and correct in all material respects as of such specified date). The representations and warranties of Parent set forth in this Agreement, other than those listed in the preceding sentence, shall be true and correct as of the date of this Agreement and as of the Effective Time as though made on and as of the Effective Time (except to the extent any such representation and warranty expressly speaks as of a specified date which shall be true and correct in all respects as of such specified date) unless the inaccuracies (without giving effect to any materiality or Material Adverse Effect qualifications or exceptions contained therein) in respect of such representations and warranties, taking all the inaccuracies in respect of all such representations and warranties together in their entirety, do not result in a Material Adverse Effect on Parent or, after giving effect to the Merger, on Parent. The Company shall have received a certificate signed on behalf of Parent by a duly authorized officer of Parent to such effect.

(b) *Performance of Obligations.* Parent shall have performed in all material respects all obligations and complied in all material respects with all agreements and covenants of Parent to be performed and complied with by it under this Agreement.

(c) *Tax Opinion.* The Company shall have received an opinion dated the Closing Date, in form and substance reasonably satisfactory to the Company, of Pillsbury Winthrop LLP, special counsel to the Company, or other law firm of national standing, to the effect that the Merger will be treated for federal income Tax purposes as a reorganization within the meaning of Section 368(a) of the Code, and that each of Parent and the Company will be a party to that reorganization within the meaning of Section 368(b) of the Code. In rendering such opinion, Pillsbury Winthrop LLP (or other law firm of national standing) may rely upon representations contained herein and representations from Parent substantially to the effect of the representations in the Parent Tax Certificate attached to the Parent Letter and representations from the Company substantially to the effect of the representations in the Company Tax Certificate attached to the Company Letter.

(d) *Material Adverse Effect.* Since the date hereof, there shall not have been any event, effect, change or development that, individually or in the aggregate with other such events, effects, changes or developments, has had, or would reasonably be expected to have, a Material Adverse Effect on Parent.

(e) *Consents Under Agreements.* Parent shall have obtained the consent or approval of each Person whose consent or approval shall be required under any Contract to which Parent or any of its Subsidiaries is a party, except those for which the failure to obtain such consent or approval would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Parent, provided that Parent and the Company agree that the failure to obtain any one of the consents or approvals set forth on *Item 8.2(e)* of the Parent Letter shall not in and of itself be expected to have a Material Adverse Effect on Parent.

Section 8.3 *Conditions to the Obligations of Parent to Effect the Merger.* The obligation of Parent to effect the Merger shall be subject to the fulfillment at or prior to the Effective Time of the following additional conditions:

(a) *Accuracy of Representations and Warranties.* The representations and warranties of the Company set forth in *Sections 4.3* (Capital Structure), *4.4* (Authority), *4.8* (Information Supplied), *4.20* (Required Vote of the Company Shareholders), *4.21* (State Takeover Statutes), *4.22* (Brokers) and *4.26* (Holdings) shall be true and correct with respect to those matters that are qualified by Material Adverse Effect or materiality and shall be true and correct in all material respects with respect to those matters that are not so qualified, in each case as of the date of this Agreement and as of the Effective Time as though made on and as of the Effective Time (except to the extent any such representation and warranty expressly speaks as of a specified date which shall be true and correct in all material respects as of such specified date). The representations and warranties of the Company set forth in this Agreement, other than those listed in the preceding sentence, shall be true and correct as of the date of this Agreement and as of the Effective Time as though made on and as of the Effective Time (except to the extent any such representation and warranty expressly speaks as of a specified date which shall be true and correct in all respects as of such specified date) unless the inaccuracies (without giving effect to any materiality or Material Adverse Effect qualifications or exceptions contained therein) in respect of such representations and warranties, taking all the inaccuracies in respect of all such representations and warranties together in their entirety, do not result in a Material Adverse Effect on the Company or, after giving effect to the Merger, on Parent. Parent shall have received a certificate signed on behalf of the Company by a duly authorized officer of the Company to such effect.

(b) *Performance of Obligations.* The Company shall have performed in all material respects all obligations and complied in all material respects with all agreements and covenants of the Company to be performed and complied with by it under this Agreement.

(c) *Consents Under Agreements.* The Company shall have obtained the consent or approval of each Person whose consent or approval shall be required under any Contract to which the Company or any of its Subsidiaries is a party, except those for which the failure to obtain such consent or approval would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the Company or, after giving effect to the Merger, on Parent, provided that Parent and the Company agree that the failure to obtain any one of the consents or approvals set forth on *Item 8.3(c)* of the Company Letter shall not in and of itself be expected to have a Material Adverse Effect on the Company or, after giving effect to the Merger, on Parent.

(d) *Tax Opinion.* Parent shall have received an opinion or opinions dated the Closing Date, in form and substance reasonably satisfactory to Parent, of Sidley Austin Brown & Wood LLP, special counsel to Parent, or other law firm of national standing, to the effect that the Merger will be treated for federal income Tax purposes as a reorganization within the meaning of Section 368(a) of the Code, and that each of Parent and the Company will be a party to that reorganization within the meaning of Section 368(b) of the Code. In rendering the opinion referred to in the preceding sentence, Sidley Austin Brown & Wood LLP (or other law firm of national standing) may rely upon representations contained herein and representations from Parent substantially to the effect of the representations in the Parent Tax Certificate attached to the Parent Letter and representations from the Company substantially to the effect of the representations in the Company Tax Certificate attached to the Company Letter.

(e) *Material Adverse Effect.* Since the date hereof, there shall not have been any event, effect, change or development that, individually or in the aggregate with other such events, effects, changes or developments, has had, or would reasonably be expected to have, a Material Adverse Effect on the Company.

ARTICLE IX TERMINATION AND AMENDMENT

Section 9.1 *Termination.* This Agreement may be terminated at any time prior to the Effective Time, whether before or after the Company Shareholder Approval or the Parent Shareholder Approval:

(a) by mutual written consent of Parent and the Company;

(b) by either Parent or the Company if (i) any Governmental Entity shall have issued an order, decree or ruling or taken any other action permanently enjoining, restraining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree or ruling or other action shall have become final and nonappealable or (ii) any Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, law, ordinance, rule, regulation, judgment, decree, injunction or other order that is a Burdensome Order which is a Final Order and which is not subject to further appeal;

(c) by Parent if there has been a breach of any representation, warranty, covenant or other agreement made by the Company in this Agreement, or any such representation and warranty shall have become untrue after the date of this Agreement, in each case such that *Section 8.3(a)* or *Section 8.3(b)* would not be satisfied and such breach or condition is not curable or, if curable, is not cured within 30 days after written notice thereof is given by Parent to the Company;

(d) by Parent if (i) the Board of Directors of the Company shall not have recommended, or the Board of Directors of the Company (or any committee thereof) shall have withdrawn or shall have qualified or modified in any manner adverse to Parent its recommendation of, this Agreement or its approval of or declaration that this Agreement and the Merger are advisable and fair to, and in the best interests of, the Company and its shareholders or shall have taken any other action or made any other statement in connection with the Company Shareholders Meeting inconsistent with such recommendation, approval or declaration, (ii) the Board of Directors of the Company (or any committee thereof) shall have approved or recommended any Takeover Proposal, (iii) the Board of Directors of the Company (or any committee thereof) shall have proposed or resolved to do any of the foregoing in *clauses (i)* and *(ii)*, (iv) the Company shall have breached *Section 6.2* in any material respect or (v) a tender offer or exchange offer for 20% or more of the outstanding shares of capital stock of the Company is commenced, and the Board of Directors of the Company fails to recommend against acceptance of such tender offer or exchange offer by its shareholders within 10 days after such

commencement (including by taking no position with respect to the acceptance of such tender offer or exchange offer by its shareholders);

(e) by the Company prior to the Company Shareholders Meeting if (A) the Board of Directors of the Company authorizes the Company, subject to complying with the terms of this Agreement, to enter into a definitive agreement concerning a transaction that constitutes a Superior Proposal and the Company notifies Parent in writing that it intends to enter into such an agreement, attaching the most current version of such agreement to such notice, (B) Parent does not make, within five business days of receipt of the Company's written notification of its intention to enter into a definitive agreement for a Superior Proposal, an offer that the Board of Directors of the Company determines, in its reasonable good faith judgment after consultation with its financial advisors, is at least as favorable, from a financial point of view, to the shareholders of the Company as the Superior Proposal and (C) the Company prior to or concurrently with such termination pays to Parent in immediately available funds the amount required by *Section 9.2(b)*. The Company agrees (x) that it will not enter into a definitive agreement referred to in *clause (A)* above until at least the sixth business day after it has provided the notice to Parent required thereby and (y) to notify Parent promptly in writing if its intention to enter into a definitive agreement referred to in its notification shall change at any time after giving such notification;

(f) by the Company if there has been a breach of any representation, warranty, covenant or other agreement made by Parent in this Agreement, or any such representation and warranty shall have become untrue after the date of this Agreement, in each case such that *Section 8.2(a)* or *Section 8.2(b)* would not be satisfied and such breach or condition is not curable or, if curable, is not cured within 30 days after written notice thereof is given by the Company to Parent;

(g) by the Company if (i) the Board of Directors of Parent shall not have recommended, or the Board of Directors of Parent (or any committee thereof) shall have withdrawn or shall have qualified or modified in any manner adverse to the Company its recommendation of, the issuance of Parent Shares in connection with the Merger or its approval of or declaration that this Agreement and the Merger are advisable and fair to, and in the best interests of, Parent and its shareholders or shall have taken any other action or made any other statement in connection with the Parent Shareholders Meeting inconsistent with such recommendation, approval or declaration or (ii) the Board of Directors of Parent or any committee thereof shall have proposed or resolved to do any of the foregoing;

(h) by either the Company or Parent if (i) at the Company Shareholders Meeting (including any adjournment or postponement thereof), the Company Shareholder Approval shall not have been obtained, or (ii) at the Parent Shareholders Meeting (including any adjournment or postponement thereof), the Parent Shareholder Approval shall not have been obtained;

(i) by either Parent or the Company, if the Merger shall not have been consummated by June 20, 2006 (the "*End Date*"); *provided, however*, that if all other conditions set forth in *Article VIII* (other than conditions that by their nature are to be satisfied on the Closing Date) are satisfied other than the condition of obtaining approval of the Merger by FERC under §203 of the Power Act (or any successor thereto) or approval of the Merger by the SEC under PUHCA (or any successor thereto) (collectively, the "*Federal Required Statutory Approvals*") or, with respect to one or more of the Parent Required Statutory Approvals listed as Items 5, 8, 9 and 12 on *Item 5.5(b)* of the Parent Letter and one or more of the Company Required Statutory Approvals listed as Items 5, 6 and 10 on *Item 4.5(b)* of the Company Letter, each of Parent and the Company are reasonably satisfied that the applicable Governmental Entity will not issue such Parent Required Statutory Approval or Company Required Statutory Approval until one or both of the Federal Required Statutory Approvals which have not been obtained are obtained, either Parent or the Company, by written notice delivered prior to the End Date, may extend such period by six months after the End Date; *provided, further*, that the right to terminate this Agreement under this *Section 9.1(i)* 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 Merger to occur on or before the End Date; or

(j) by either the Company or Parent if a Parent Acquisition Transaction occurs or Parent or any of its Subsidiaries shall enter into a definitive agreement with respect to a Parent Acquisition Transaction; *provided, however*, that the Company or Parent, as the case may be, shall only be entitled to terminate this Agreement pursuant to this *Section 9.1(j)* for a period of ten days from the earlier to occur of such a Parent Acquisition Transaction and the public announcement of the entry into such definitive agreement with respect to such Parent Acquisition Transaction; *provided, further*, that neither the Company nor Parent shall be entitled to terminate this Agreement pursuant to this *Section 9.1(j)* after the Company Shareholders Meeting or the Parent Shareholders Meeting, respectively; for purposes of this *Section 9.1(j)*, "*Parent Acquisition Transaction*" means the acquisition, directly or indirectly, for consideration consisting of cash and/or securities, of more than 50% of the voting power of the capital stock of Parent then outstanding or all or substantially all the assets of Parent.

Section 9.2 Effect of Termination. (a) In the event of a termination of this Agreement by either the Company or Parent as provided in *Section 9.1*, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Parent or the Company or their respective officers or directors, except with respect to *Section 4.22*, *Section 5.23*, *Section 7.5*, this *Section 9.2* and *Article X* and *Section 7.4(c)*; *provided, however*, that nothing herein shall relieve any party for liability for any willful or knowing breach hereof.

(b) In the event that this Agreement is terminated (i) by Parent pursuant to *Section 9.1(d)* or (ii) by the Company pursuant to *Section 9.1(e)*, then the Company shall, on the date of such termination, pay to Parent, by wire transfer of immediately available funds, the amount of \$400 million and all of the fees and out-of-pocket expenses (including financial advisor and attorney fees and expenses) incurred by Parent in connection with this Agreement and the transactions contemplated by this Agreement up to a maximum of \$40 million.

(c) In the event that between the date hereof and the termination of this Agreement a Takeover Proposal existed or any Person shall have directly or indirectly disclosed to the Company and/or publicly disclosed or made known to the Company's shareholders generally that if the Merger is not consummated such Person or one of its Affiliates will make a Takeover Proposal and thereafter, in each case, this Agreement is terminated by Parent or the Company pursuant to *Section 9.1(h)(i)* or *Section 9.1(i)*, and if concurrently with such termination or within twelve months of such termination the Company or any of its Subsidiaries enters into a definitive agreement with respect to a Takeover Proposal or consummates a Takeover Proposal, then the Company shall, upon the earlier of entry into a definitive agreement with respect to a Takeover Proposal or consummating a Takeover Proposal, pay to Parent, by wire transfer of immediately available funds, the amount of \$400 million and all of the fees and out-of-pocket expenses (including financial advisor and attorney fees and expenses) incurred by Parent in connection with this Agreement and the transactions contemplated by this Agreement up to a maximum of \$40 million.

(d) In the event that this Agreement is terminated by the Company pursuant to *Section 9.1(g)*, then Parent shall, on the date of such termination, pay to the Company by wire transfer of immediately available funds, all of the fees and out-of-pocket expenses (including financial advisor and attorney fees and expenses) incurred by the Company in connection with this Agreement and the transactions contemplated by this Agreement up to a maximum of \$40 million.

(e) In the event that this Agreement is terminated by the Company or Parent pursuant to *Section 9.1(j)*, then Parent shall, on the date of such termination, pay to the Company by wire transfer of immediately available funds the amount of \$400 million and all of the fees and out-of-pocket expenses (including financial advisor and attorney fees and expenses) incurred by the Company in

connection with this Agreement and the transactions contemplated by this Agreement up to a maximum of \$40 million.

(f) The Company and Parent acknowledge that the agreements contained in *Sections 9.2(b) through (e)* are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Parent or the Company, as applicable, would not enter into this Agreement; accordingly, if the Company or Parent, as applicable, fails to promptly pay the amount due pursuant to *Section 9.2(b), (c), (d) or (e)*, as the case may be, and, in order to obtain such payment, Parent or the Company, as applicable, commences a suit which results in a judgment against the Company or Parent, as applicable, for any of the amounts set forth in *Section 9.2(b), (c), (d) or (e)*, as the case may be, the Company or Parent, as applicable, shall pay to Parent or the Company, as applicable, its costs and expenses (including attorneys' fees) in connection with such suit. Interest shall accrue on any amounts due under *Section 9.2(b), (c), (d) or (e)* from and after 30 days of the date such amount is due at the prime rate of J.P. Morgan Chase, N.A. in effect on the date such payment was required to be made.

Section 9.3 Amendment. This Agreement may be amended by the parties hereto at any time before or after obtaining the Company Shareholder Approval or the Parent Shareholder Approval, but if (i) the Company Shareholder Approval shall have been obtained, thereafter no amendment shall be made which by law requires further approval by the Company's shareholders without obtaining such further approval or (ii) the Parent Shareholder Approval shall have been obtained, thereafter no amendment shall be made which by law requires further approval by Parent's shareholders without obtaining such further approval. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

Section 9.4 Extension; Waiver. At any time prior to the Effective Time, the parties hereto, by action taken or authorized by their respective Board of Directors, may, to the extent legally allowed, (i) extend the time for the performance of any of the obligations or other acts of the other parties hereto, (ii) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto or (iii) waive compliance with any of the agreements or conditions contained herein; *provided, however*, that such extension or waiver shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in a written instrument signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of those rights.

ARTICLE X GENERAL PROVISIONS

Section 10.1 Non-Survival of Representations and Warranties and Agreements. None of the representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. This *Section 10.1* shall not limit any covenant or agreement of the parties which by its terms contemplates performance after the Effective Time of the Merger.

Section 10.2 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given when delivered personally, one day after being delivered to a nationally recognized overnight courier or when sent by facsimile (with a confirmatory copy sent by such

overnight courier) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to Parent, to:

Exelon Corporation
10 S. Dearborn St.
Chicago, Illinois 60603
Attn: General Counsel
Fax No.: (312) 394-2900

with a copy to:

Sidley Austin Brown & Wood LLP
10 S. Dearborn St.
Chicago, Illinois 60603
Attn: Thomas A. Cole
Carol M. Lind
Fax No.: (312) 853-7036

(b) if to the Company, to:

Public Service Enterprise Group Incorporated
80 Park Plaza
Newark, New Jersey 07102
Attn: General Counsel
Fax No.: (973) 622-0271

with copies to:

Pillsbury Winthrop LLP
1540 Broadway
New York, New York 10036
Attn: David P. Falck
Fax No.: (212) 858-1500

Section 10.3 Counterparts. This Agreement may be executed in counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

Section 10.4 Entire Agreement; No Third-Party Beneficiaries. Except for the Confidentiality Agreement, this Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement, except for the provisions of *Section 7.9*, is not intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

Section 10.5 Governing Law and Venue; Waiver of Jury Trial. **(a) THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK (EXCEPT TO THE EXTENT THE LAWS OF PENNSYLVANIA OR NEW JERSEY ARE MANDATORILY APPLICABLE TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT) WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF.** Each of the parties irrevocably submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York located in the borough of Manhattan in the City of New York, or if such court does not have jurisdiction, the Supreme Court of the State of New York, New York County,

for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of the parties hereto irrevocably and fully waives the defense of an inconvenient forum to the maintenance of such suit, action or proceeding. Each of the parties further agrees that service of any process, summons, notice or document to such party's respective address listed above in one of the manners set forth in *Section 10.2* shall be deemed in every respect effective service of process in any such suit, action or proceeding. Nothing herein shall affect the right of any Person to serve process in any other manner permitted by law. Each of the parties hereto irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (a) the United States District Court for the Southern District of New York or (b) the Supreme Court of the State of New York, New York County, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND (iv) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS *SECTION 10.5*.

Section 10.6 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other parties. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 10.7 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated hereby are not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement may be consummated as originally contemplated to the fullest extent possible.

Section 10.8 Enforcement of this Agreement. In addition to any remedy to which any party hereto is specifically entitled by the terms hereof, each party shall be entitled to pursue any other remedy available to it at law or in equity (including damages, specific performance or other injunctive relief) in the event that any of the provisions of this Agreement were not performed in accordance with their terms or were otherwise breached; *provided* that, notwithstanding the foregoing, if a termination fee or any expenses in connection with the transactions contemplated by this Agreement are payable pursuant to *Section 9.2*, then, subject to *Section 9.2(a)*, such termination fee or expenses shall be the sole remedy

